STATE OF NEW YORK

8271--A

IN SENATE

April 25, 2018

Introduced by Sen. GOLDEN -- 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

AN ACT to amend the vehicle and traffic law, in relation to required protective headgear for operators of bicycles under eighteen years of age

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The section heading, paragraphs (a) and (b) of subdivision 5, and subdivision 9 of section 1238 of the vehicle and traffic law, the section heading as amended by chapter 267 of the laws of 1993, paragraphs (a) and (b) of subdivision 5 as amended by chapter 457 of the laws of 1999 and subdivision 9 as amended by chapter 703 of the laws of 2004, are amended to read as follows:

Passengers on bicycles under one year of age prohibited; passengers and operators under [~~fourteen~~] eighteen years of age to wear protective headgear.

(a) No person operating a bicycle shall allow a person five or more years of age and less than [~~fourteen~~] eighteen years of age to ride as a passenger on a 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~~] eighteen years of age, shall operate a bicycle unless such person is wearing a helmet meeting standards established by the commissioner.

9. (a) 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~~] eighteen years of age from operating a 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

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

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the American Society of Testing and Materials (ASTM) bike helmet standards, or that prohibits a person operating a bicycle from allowing a person five or more years of age and less than [~~fourteen~~] eighteen years of age to ride as a passenger on a 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, or operating a skate board[~~, or operating or riding as a passenger on a bicycle~~] without wearing a bicycle helmet.

(b) Subdivisions five 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 paragraph that prohibits a person who is one or more years of age and less than eighteen years of age from operating a bicycle 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 from allowing a person five or more years of age and less then eighteen years of age to ride as a passenger on a 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 culpable conduct, 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 be used to mitigate or diminish 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 eighteen or more years of age from operating or riding as a passenger on a bicycle without wearing a bicycle helmet.

§ 2. This act shall take effect on the sixtieth day after it shall have become a law.