

# STATE OF NEW YORK

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8822

2019-2020 Regular Sessions

## IN ASSEMBLY

November 25, 2019

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Introduced by M. of A. MOSLEY -- read once and referred to the Committee on Transportation

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

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

1 Section 1. The section heading, subdivision 4, paragraphs (a) and (b)  
2 of subdivision 5, and subdivisions 5-a, 5-b, 8 and 9 of section 1238 of  
3 the vehicle and traffic law, the section heading and subdivision 4 as  
4 amended by chapter 267 of the laws of 1993, paragraphs (a) and (b) of  
5 subdivision 5 as amended by chapter 457 of the laws of 1999, subdivi-  
6 sions 5-a and 9 as amended by chapter 703 of the laws of 2004, subdivi-  
7 sion 5-b as added by chapter 402 of the laws of 2001, and subdivision 8  
8 as amended by chapter 694 of the laws of 1995, are amended to read as  
9 follows:

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

13 4. The court shall waive any fine for which a person who violates the  
14 provisions of paragraph (a) of subdivision two of this section would be  
15 liable if such person supplies the court with proof that between the  
16 date of violation and the appearance date for such violation such person  
17 purchased or rented a helmet, which meets the requirements of paragraph  
18 (a) of subdivision two of this section. Further, the court shall waive  
19 any fine for which a person who violates the provisions of paragraph (b)  
20 of subdivision two of this section would be liable if such person  
21 supplies the court with proof that between the date of violation and the  
22 appearance date for such violation such person purchased or rented a  
23 seat which meets the requirements of paragraph (b) of subdivision two of  
24 this section. The court [~~may~~ shall] waive any fine for which a person  
25 who violates the provisions of subdivision two of this section would be  
26 liable if the court finds that due to reasons of economic hardship such  
27 person was unable to purchase a helmet or seat. Such waiver of fine

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

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

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

7 (b) No person, one or more years of age and less than [~~fourteen~~] eigh-  
8 teen years of age, shall operate a bicycle unless such person is wearing  
9 a helmet meeting standards established by the commissioner.

10 5-a. No person, one or more years of age and less than [~~fourteen~~]  
11 eighteen years of age, shall skate or glide on in-line skates or a skate  
12 board unless such person is wearing a helmet meeting standards estab-  
13 lished by the commissioner. For the purposes of this subdivision, wear-  
14 ing a helmet means having a helmet of good fit fastened securely on the  
15 head of such wearer with the helmet straps securely fastened.

16 5-b. No person less than [~~fourteen~~] eighteen years of age shall ride  
17 upon, propel or otherwise operate a two-wheeled vehicle commonly called  
18 a scooter unless such person is wearing a helmet meeting standards  
19 established by the commissioner. As used in this subdivision, wearing a  
20 helmet means having a properly fitting helmet fixed securely on the head  
21 of such wearer with the helmet straps securely fastened.

22 8. A police officer shall only issue a summons for a violation of  
23 subdivision two, five, or five-a of this section by a person less than  
24 [~~fourteen~~] eighteen years of age to the parent or guardian of such  
25 person if the violation by such person occurs in the presence of such  
26 person's parent or guardian and where such parent or guardian is eigh-  
27 teen years of age or more. Such summons shall only be issued to such  
28 parent or guardian, and shall not be issued to the person less than  
29 [~~fourteen~~] eighteen years of age.

30 9. Subdivisions five, five-a, five-b, and six of this section shall  
31 not be applicable to any county, city, town or village that has enacted  
32 a local law or ordinance prior to the effective date of this subdivision  
33 that prohibits a person who is one or more years of age and less than  
34 [~~fourteen~~] eighteen years of age from operating a bicycle or skating or  
35 gliding on in-line skates or a skate board without wearing a bicycle  
36 helmet meeting the standards of the American National Standards Insti-  
37 tute (Ansi Z 90.4 bicycle helmet standards), the Snell Memorial Founda-  
38 tion's Standards for Protective Headgear for use in Bicycling, or the  
39 American Society of Testing and Materials (ASTM) bike helmet standards,  
40 or that prohibits a person operating a bicycle from allowing a person  
41 five or more years of age and less than [~~fourteen~~] eighteen years of age  
42 to ride as a passenger on a bicycle unless such passenger is wearing a  
43 bicycle helmet that meets such standards. The failure of any person to  
44 comply with any such local law or ordinance shall not constitute contri-  
45 butory negligence or assumption of risk, and shall not in any way bar,  
46 preclude or foreclose an action for personal injury or wrongful death by  
47 or on behalf of such person, nor in any way diminish or reduce the  
48 damages recoverable in any such action. The legislative body of a coun-  
49 ty, city, town or village may enact a local law or ordinance that  
50 prohibits a person who is [~~fourteen~~] eighteen or more years of age from  
51 skating or gliding on in-line skates, operating a skate board, or oper-  
52 ating or riding as a passenger on a bicycle without wearing a bicycle  
53 helmet.

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