STATE OF NEW YORK

4243

2019-2020 Regular Sessions

IN SENATE

March 5, 2019

Introduced by Sens. KRUEGER, LIU -- read twice and ordered printed, and when printed to be committed 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:

Section 1. This act shall be known and may be cited as the "Commercial Bicycle Safety Act".

§ 2. Section 10-157 of the administrative code of the city of New York, as amended by local law number 91 of the city of New York for the year 2017, is amended to read as follows:

§ 10-157 Bicycles used for commercial purposes. a. For purposes of this section and section 10-157.1 **of this chapter**, the following terms have the following meanings:

(1) Bicycle. The term "bicycle" has the same meaning as in section 19-176 **of this code**, and also means any wheeled device propelled exclusively by human power as well as any motor-assisted device that is not capable of being registered by the New York state department of motor vehicles.

(2) Bicycle operator. The term "bicycle operator" means a person who delivers packages, parcels, papers, **food or groceries,** or articles of any type by bicycle on behalf of a business using a bicycle for commercial purposes and who is paid by such business.

(3) Business using a bicycle for commercial purposes. The term "business using a bicycle for commercial purposes" means a person, firm, partnership, joint venture, association, corporation, or other entity that, either on behalf of itself or others, delivers packages, parcels, papers, **food or groceries,** or articles of any type by bicycle. Nothing contained in this section shall be construed as applying to persons under the age of sixteen who use a bicycle only to deliver daily newspapers or circulars.

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

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b. A business using a bicycle for commercial purposes that does not have a site within the city that is open and available to the public must provide to the department of transportation, upon a form prescribed by the department, the following information:

(1) the name under which such business is authorized to do business in the state, pursuant to the business corporation law,

(2) the registered agent upon whom process against such business may be served and the address of such agent, or, if the business has designated the secretary of state as its agent for receiving such process, the post office address to which the secretary of state may mail a copy of such process, and

(3) any other information requested by the department.

c. A business using a bicycle for commercial purposes must assign to each of its bicycle operators a three digit identification number, except that the department of transportation may promulgate a rule to require an identification number with four or more digits. Such business must issue to each of its bicycle operators an identification card that contains the name, identification number and photo of the bicycle operator and the name, address and telephone number of such business. A bicycle operator shall carry such identification card while making deliveries or otherwise operating a bicycle on behalf of any such business. A bicycle operator shall be required to produce such identification card upon the demand of an authorized employee of the police department or department of transportation or any other person authorized by law.

d. A business using a bicycle for commercial purposes shall maintain a roster of its bicycle operators. Such roster shall include for each such bicycle operator: name; home address; start date; discharge date, if applicable; identification number; and date of completion of the bicycle safety course required by paragraph three of subdivision e of this section. Such roster shall be made available for inspection upon request of an authorized employee of the police department or department of transportation or any other person authorized by law.

e. (1) A business using a bicycle for commercial purposes shall provide at its own expense or ensure the availability of protective headgear suitable for each of its bicycle operators. Such business may not require any of its bicycle operators to provide such headgear at such operator's expense. 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; and

(ii) 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 component parts or is otherwise damaged so as to impair its functionality.

(2) Each bicycle operator shall wear protective headgear that meets the requirements of paragraph one of this subdivision while making deliveries or otherwise operating a bicycle on behalf of a business using a bicycle for commercial purposes. The term "wear protective headgear" means having the headgear fastened securely upon the head with the headgear straps.

(3) Each bicycle operator shall complete a bicycle safety course prior to making deliveries or otherwise operating a bicycle on behalf of a business using a bicycle for commercial purposes. For purposes of this section, "bicycle safety course" shall mean information provided by the department of transportation regarding safe bicycling and adherence to traffic and commercial bicycle laws.

(4) The commissioner of transportation shall post on the department of transportation's website the content of the bicycle safety course required by this section.

f. A business using a bicycle for commercial purposes, notwithstanding that a bicycle may be provided by any of its bicycle operators, shall provide at its own expense or ensure that each bicycle is equipped with: a lamp; a bell or other device capable of giving an audible signal from a distance of at least one hundred feet, provided however that a siren or whistle shall not be used; brakes; reflective tires or, alternately, a reflex reflector mounted on the spokes of each wheel; as well as other devices or material in accordance with section [~~1236~~] twelve hundred thirty-six of the vehicle and traffic law. Such business may not require any of its bicycle operators to provide such equipment at such operator's expense.

g. A business using a bicycle for commercial purposes shall be responsible for the compliance with the provisions of this section, section 19-176 of this code, and sections eleven hundred eleven, eleven hundred twenty-seven, twelve hundred thirty-six, twelve hundred forty, and twelve hundred forty-one of the vehicle and traffic law of its bicycle operators. Violation of any of the provisions of this section by any such business, or of any of the rules or regulations that may be promulgated pursuant hereto, shall be a violation triable by a judge of the criminal court of the city of New York and upon conviction thereof shall be punishable by a fine of not less than one hundred dollars [~~nor~~] and not more than two hundred fifty dollars [~~or imprisonment for not more than fifteen days or both such fine and imprisonment~~]. In addition, any such business that violates any of the provisions of this section or any of the rules promulgated pursuant hereto shall be subject to a civil penalty of one hundred dollars. Any such business that violates a provision of this section or rule promulgated pursuant hereto more than thirty days and not more than two years after such business has already violated the same provision or rule shall be subject to an additional civil penalty of two hundred fifty dollars. Such civil penalties may be in addition to any criminal penalty imposed, and shall be recoverable against such business in an action or proceeding in any court or tribunal of competent jurisdiction or the environmental control board. It shall be an affirmative defense to a violation of this section by a person, firm, partnership, joint venture, association, corporation, or other entity as to any provision applicable to a business using a bicycle for commercial purposes, that such person or entity did not employ or provide direct compensation to a bicycle operator, but rather contracted with a business other than such bicycle operator to provide delivery services.

h. Any bicycle operator who makes deliveries or otherwise operates a bicycle on behalf of a business using a bicycle for commercial purposes without carrying the identification card required by subdivision c of this section, or who fails to produce such identification card upon demand pursuant to such subdivision, or who fails to wear protective headgear required by subdivision e of this section or the retro-reflective apparel required by subdivision i of this section, shall be guilty of a traffic infraction and upon conviction thereof shall be liable for a fine of not less than twenty-five dollars nor more than fifty dollars. It shall be an affirmative defense to such traffic infraction that such business did not provide the protective headgear, the identification card or the retro-reflective apparel required by subdivisions c, e or i of this section. Such traffic infraction may be adjudicated by an admin-

istrative tribunal authorized under article two-A of the vehicle and traffic law.

i. A business using a bicycle for commercial purposes shall provide for and require each of its bicycle operators to wear, and each such bicycle operator shall wear, a retro-reflective jacket, vest, or other wearing apparel on the upper part of such operator's body as the outermost garment while making deliveries or otherwise operating a bicycle on behalf of such business, the back of which shall indicate such business's name and such bicycle operator's individual identification number as assigned pursuant to subdivision c of this section in lettering and numerals not less than one inch in height so as to be plainly readable at a distance of not less than ten feet.

j. The provisions of this section shall be enforceable by an authorized employee of the police department or department of transportation or any other person authorized by law.

k. A business using a bicycle for commercial purposes shall not possess any motorized scooter and shall not permit any person to operate a motorized scooter on behalf of such business. A business using a bicycle for commercial purposes shall be liable for any violation of **subdivision b of** section 19-176.2[~~(b)~~] **of this code** committed by any person operating a motorized scooter on behalf of such business. For purposes of this section, "motorized scooter" shall be as defined in section 19-176.2 **of this code**.

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

(1) The term "bicycle" shall mean a two or three wheeled device upon which a person or persons may ride, propelled by human power through a belt, a chain or gears, with such wheels in a tandem or tricycle, **and shall also mean any wheeled motor-assisted device which a person or persons may ride that is not capable of being registered by the New York state department of motor vehicles,** except that it shall not include such a device having solid tires and intended for use only on a sidewalk by a child.

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