STATE OF NEW YORK

7368

IN SENATE

January 22, 2020

Introduced by Sen. FELDER -- 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, in relation to requiring all persons in a city having a population of one million or more operating a bicycle, electric bicycle or electric scooter to wear a helmet

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 114-e to read as follows:

§ 114-e. Electric bicycle. Every bicycle equipped with fully operable pedals and an electric motor with an output of less than seven hundred fifty watts 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. The vehicle and traffic law is amended by adding a new section 114-f to read as follows:

§ 114-f. Electric scooter. Every device weighing less than one hundred pounds that (i) has handlebars, a floorboard that can be stood upon by the operator, and an electric motor, (ii) can be powered by the electric motor and/or human power, and (iii) has a maximum speed of no more than twenty miles per hour on a paved level surface when powered solely by the electric motor.

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

§ 1242. Helmet requirement for operators of a bicycle, electric bicycle or electric scooter in a city having a population of one million or more. 1. This section is applicable to all persons in a city having a population of one million or more for the operation of a bicycle, electric bicycle or electric scooter upon any public highway or any private road open to public motor vehicle traffic, and within a park or other area under the jurisdiction of the commissioner of parks and recreation.

2. No person shall operate a bicycle, electric bicycle or electric scooter unless such person is wearing a helmet meeting the standards of

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

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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, the American Society of Testing and Materials (ASTM) standards for bicycle helmets, the Safety Equipment Institute standards for bicycle helmets, or the United States Consumer Product Safety Commission standards for bicycle helmets.

3. It is a traffic infraction to violate the provisions of this section punishable, upon conviction, by a civil penalty of not more than fifty dollars. Such traffic infractions shall be heard and determined in accordance with article two-A of this chapter. For a violation of this section by a person less than sixteen years of age, a hearing officer shall waive the civil penalty for which the parent or guardian of a person who violates the provisions of this section would be liable if such parent or guardian supplies proof that between the date of violation and the appearance date for such violation such parent or guardian purchased or rented a helmet that meets the requirements of this section. A hearing officer may waive the civil penalty for which the parent or guardian of a person who violates the provisions of this section would be liable if he or she finds that due to reasons of economic hardship such parent or guardian was unable to purchase or rent a helmet. A waiver of the civil penalty shall not apply to a second or subsequent conviction under this section.

4. The parent or guardian of a person less than sixteen years of age shall be liable for a violation of this section by such person less than sixteen years of age. A summons for a violation of this section by a person less than sixteen years of age shall only be issued to the parent or guardian of such person if the violation occurs in the presence of such 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 sixteen years of age.

5. 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.

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