

# STATE OF NEW YORK

3095

2021-2022 Regular Sessions

## IN SENATE

January 27, 2021

Introduced by Sens. KRUEGER, LIU -- read twice and ordered printed, and when printed to be committed to the Committee on Cities 1

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:

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

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

6 § 10-157 Bicycles used for commercial purposes. a. For purposes of  
7 this section and section 10-157.1 of this chapter, the following terms  
8 have the following meanings:

9 (1) Bicycle. The term "bicycle" has the same meaning as in section  
10 19-176 of this code, and also means any wheeled device propelled exclu-  
11 sively by human power as well as any motor-assisted device that is not  
12 capable of being registered by the New York state department of motor  
13 vehicles.

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

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

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

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

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

7 (2) the registered agent upon whom process against such business may  
8 be served and the address of such agent, or, if the business has desig-  
9 nated the secretary of state as its agent for receiving such process,  
10 the post office address to which the secretary of state may mail a copy  
11 of such process, and

12 (3) any other information requested by the department.

13 c. A business using a bicycle for commercial purposes must assign to  
14 each of its bicycle operators a three digit identification number,  
15 except that the department of transportation may promulgate a rule to  
16 require an identification number with four or more digits. Such business  
17 must issue to each of its bicycle operators an identification card that  
18 contains the name, identification number and photo of the bicycle opera-  
19 tor and the name, address and telephone number of such business. A bicy-  
20 cle operator shall carry such identification card while making deliv-  
21 eries or otherwise operating a bicycle on behalf of any such business. A  
22 bicycle operator shall be required to produce such identification card  
23 upon the demand of an authorized employee of the police department or  
24 department of transportation or any other person authorized by law.

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

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

38 (i) meet the standards set forth by the consumer product safety  
39 commission in title 16, part 1203 of the code of federal regulations;  
40 and

41 (ii) be replaced if such headgear is no longer in good condition.  
42 Headgear is no longer in good condition if it is missing any of its  
43 component parts or is otherwise damaged so as to impair its functionali-  
44 ty.

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

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

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

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

15 g. A business using a bicycle for commercial purposes shall be respon-  
16 sible for the compliance with the provisions of this section, section  
17 19-176 of this code, and sections eleven hundred eleven, eleven hundred  
18 twenty-seven, twelve hundred thirty-six, twelve hundred forty, and  
19 twelve hundred forty-one of the vehicle and traffic law of its bicycle  
20 operators. Violation of any of the provisions of this section by any  
21 such business, or of any of the rules or regulations that may be promul-  
22 gated pursuant hereto, shall be a violation triable by a judge of the  
23 criminal court of the city of New York and upon conviction thereof shall  
24 be punishable by a fine of not less than one hundred dollars [~~or~~] and  
25 not more than two hundred fifty dollars [~~or imprisonment for not more~~  
26 ~~than fifteen days or both such fine and imprisonment~~]. In addition, any  
27 such business that violates any of the provisions of this section or any  
28 of the rules promulgated pursuant hereto shall be subject to a civil  
29 penalty of one hundred dollars. Any such business that violates a  
30 provision of this section or rule promulgated pursuant hereto more than  
31 thirty days and not more than two years after such business has already  
32 violated the same provision or rule shall be subject to an additional  
33 civil penalty of two hundred fifty dollars. Such civil penalties may be  
34 in addition to any criminal penalty imposed, and shall be recoverable  
35 against such business in an action or proceeding in any court or tribu-  
36 nal of competent jurisdiction or the environmental control board. It  
37 shall be an affirmative defense to a violation of this section by a  
38 person, firm, partnership, joint venture, association, corporation, or  
39 other entity as to any provision applicable to a business using a bicy-  
40 cle for commercial purposes, that such person or entity did not employ  
41 or provide direct compensation to a bicycle operator, but rather  
42 contracted with a business other than such bicycle operator to provide  
43 delivery services.

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

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

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

13 j. The provisions of this section shall be enforceable by an author-  
14 ized employee of the police department or department of transportation  
15 or any other person authorized by law.

16 k. A business using a bicycle for commercial purposes shall not  
17 possess any motorized scooter and shall not permit any person to operate  
18 a motorized scooter on behalf of such business. A business using a bicy-  
19 cle for commercial purposes shall be liable for any violation of subdi-  
20 vision b of section 19-176.2[~~(b)~~] of this code committed by any person  
21 operating a motorized scooter on behalf of such business. For purposes  
22 of this section, "motorized scooter" shall be as defined in section  
23 19-176.2 of this code.

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

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

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