STATE OF NEW YORK

7294

2021-2022 Regular Sessions

IN SENATE

July 16, 2021

Introduced by Sen. FELDER -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the vehicle and traffic law and the insurance law, in relation to requiring liability insurance for bicycles, bicycles with electric assist and electric scooters in cities having a population of one million or more

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 1244 to read as follows:

§ 1244. Liability insurance. 1. A bicycle or bicycle with electric assist which is operated anywhere in a city having a population of one million or more other than on lands of the owner of such bicycle or bicycle with electric assist shall be covered by a policy of insurance, in such language and form as shall be determined and established by the superintendent of financial services, issued by an insurance carrier authorized to do business in this state. Such policy shall provide for coverages required of an "owner's policy of liability insurance" as set forth in paragraph (a) of subdivision four of section three hundred eleven of this chapter. In lieu of such insurance coverage as hereinabove provided, the commissioner, in his or her discretion and upon application of a governmental agency having registered in its name one or more bicycles or bicycles with electric assist, may waive the requirement of insurance by a private insurance carrier and issue a certificate of self-insurance, when he or she is satisfied that such governmental agency is possessed of financial ability to respond to judgments obtained against it, arising out of the ownership, use or operation of such bicycles or bicycles with electric assist. The commissioner may also waive the requirement of insurance by a private insurance carrier and issue a certificate of self-insurance upon application of any person or any other corporation, having registered in its name,

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

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one or more bicycles or bicycles with electric assist and furnishing of proof that a certificate of self-insurance has been issued and is in effect pursuant to the provisions of section three hundred sixteen of this chapter.

2. Proof of insurance as required by this section shall be produced and displayed by the owner or operator of such bicycle or bicycle with electric assist upon the request of any magistrate or any person having authority to enforce the provisions of this chapter. The failure to produce such proof upon the request of any such person shall not be an offense but shall be presumptive evidence that such bicycle or bicycle with electric assist is being operated without having such insurance in force and effect.

3. Proof of insurance as required by this section shall be produced and displayed by the owner or operator of such bicycle or bicycle with electric assist to any person who has suffered or claims to have suffered either personal injury or property damage as a result of the operation of such bicycle or bicycle with electric assist by the owner or operator, if such insurance coverage was required under the circumstances of such operation. It shall be an affirmative defense to any prosecution for a violation of this subdivision that such proof was so produced or displayed within twenty-four hours of receiving notice of such injury or damage, or the claim of such injury or damage.

4. No owner of a bicycle or bicycle with electric assist shall operate or permit the same to be operated anywhere in this state other than on lands of the owner of the bicycle or bicycle with electric assist without having in full force and effect the liability insurance coverage required by this section, and no person shall operate a bicycle or bicycle with electric assist anywhere in this state other than on lands of the owner of the bicycle or bicycle with electric assist with the knowledge that such insurance is not in full force and effect.

§ 2. The vehicle and traffic law is amended by adding a new section 1290 to read as follows:

§ 1290. Liability insurance. 1. An electric scooter which is operated anywhere in a city having a population of one million or more other than on lands of the owner of such electric scooter shall be covered by a policy of insurance, in such language and form as shall be determined and established by the superintendent of financial services, issued by an insurance carrier authorized to do business in this state. Such policy shall provide for coverages required of an "owner's policy of liability insurance" as set forth in paragraph (a) of subdivision four of section three hundred eleven of this chapter. In lieu of such insurance coverage as hereinabove provided, the commissioner, in his or her discretion and upon application of a governmental agency having registered in its name one or more electric scooters, may waive the requirement of insurance by a private insurance carrier and issue a certificate of self-insurance, when he or she is satisfied that such governmental agency is possessed of financial ability to respond to judgments obtained against it, arising out of the ownership, use or operation of such electric scooters. The commissioner may also waive the requirement of insurance by a private insurance carrier and issue a certificate of self-insurance upon application of any person or any other corporation, having registered in its name, one or more electric scooters and furnishing of proof that a certificate of self-insurance has been issued and is in effect pursuant to the provisions of section three hundred sixteen of this chapter.

2. Proof of insurance as required by this section shall be produced and displayed by the owner or operator of such electric scooter upon the request of any magistrate or any person having authority to enforce the provisions of this chapter. The failure to produce such proof upon the request of any such person shall not be an offense but shall be presumptive evidence that such electric scooter is being operated without having such insurance in force and effect.

3. Proof of insurance as required by this section shall be produced and displayed by the owner or operator of such electric scooter to any person who has suffered or claims to have suffered either personal injury or property damage as a result of the operation of such electric scooter by the owner or operator, if such insurance coverage was required under the circumstances of such operation. It shall be an affirmative defense to any prosecution for a violation of this subdivision that such proof was so produced or displayed within twenty-four hours of receiving notice of such injury or damage, or the claim of such injury or damage.

4. No owner of an electric scooter shall operate or permit the same to be operated anywhere in this state other than on lands of the owner of the electric scooter without having in full force and effect the liability insurance coverage required by this section, and no person shall operate an electric scooter anywhere in this state other than on lands of the owner of the electric scooter with the knowledge that such insurance is not in full force and effect.

§ 3. Subdivision (f) of section 5103 of the insurance law, as amended by chapter 402 of the laws of 1986, is amended to read as follows:

(f) Every owner's policy of liability insurance issued on a motorcycle**, bicycle, bicycle with electric assist, electric scooter** or an all terrain vehicle in satisfaction of the requirements of article six or eight of the vehicle and traffic law**, section twelve hundred forty-four of such law, section twelve hundred ninety of such law,** or section twenty-four hundred seven of such law shall also provide for; every owner who maintains another form of financial security on a motorcycle**, bicycle, bicycle with electric assist, electric scooter** or an all terrain vehicle in satisfaction of the requirements of such articles or [~~section~~] **sections** shall be liable for; and every owner of a motorcycle**, bicycle, bicycle with electric assist, electric scooter** or an all terrain vehicle required to be subject to the provisions of this article by subdivision two of section three hundred twenty-one of such law shall be liable for; the payment of first party benefits to persons, other than the occupants of such motorcycle**, bicycle, bicycle with electric assist, electric scooter** or all terrain vehicle, another motorcycle**, bicycle, bicycle with electric assist, electric scooter** or all terrain vehicle, or any motor vehicle, for loss arising out of the use or operation of the motorcycle**, bicycle, bicycle with electric assist, electric scooter** or all terrain vehicle within this state. Every insurer and self-insurer may exclude from the coverage required by this subsection a person who intentionally causes his own injury or is injured while committing an act which would constitute a felony or while seeking to avoid lawful apprehension or arrest by a law enforcement officer.

§ 4. This act shall take effect on the one hundred twentieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.