

# 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:

1 Section 1. The vehicle and traffic law is amended by adding a new  
2 section 1244 to read as follows:

3 § 1244. Liability insurance. 1. A bicycle or bicycle with electric  
4 assist which is operated anywhere in a city having a population of one  
5 million or more other than on lands of the owner of such bicycle or  
6 bicycle with electric assist shall be covered by a policy of insurance,  
7 in such language and form as shall be determined and established by the  
8 superintendent of financial services, issued by an insurance carrier  
9 authorized to do business in this state. Such policy shall provide for  
10 coverages required of an "owner's policy of liability insurance" as set  
11 forth in paragraph (a) of subdivision four of section three hundred  
12 eleven of this chapter. In lieu of such insurance coverage as hereina-  
13 bove provided, the commissioner, in his or her discretion and upon  
14 application of a governmental agency having registered in its name one  
15 or more bicycles or bicycles with electric assist, may waive the  
16 requirement of insurance by a private insurance carrier and issue a  
17 certificate of self-insurance, when he or she is satisfied that such  
18 governmental agency is possessed of financial ability to respond to  
19 judgments obtained against it, arising out of the ownership, use or  
20 operation of such bicycles or bicycles with electric assist. The commis-  
21 sioner may also waive the requirement of insurance by a private insur-  
22 ance carrier and issue a certificate of self-insurance upon application  
23 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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1 one or more bicycles or bicycles with electric assist and furnishing of  
2 proof that a certificate of self-insurance has been issued and is in  
3 effect pursuant to the provisions of section three hundred sixteen of  
4 this chapter.

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

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

23 4. No owner of a bicycle or bicycle with electric assist shall operate  
24 or permit the same to be operated anywhere in this state other than on  
25 lands of the owner of the bicycle or bicycle with electric assist with-  
26 out having in full force and effect the liability insurance coverage  
27 required by this section, and no person shall operate a bicycle or bicy-  
28 cle with electric assist anywhere in this state other than on lands of  
29 the owner of the bicycle or bicycle with electric assist with the know-  
30 ledge that such insurance is not in full force and effect.

31 § 2. The vehicle and traffic law is amended by adding a new section  
32 1290 to read as follows:

33 § 1290. Liability insurance. 1. An electric scooter which is operated  
34 anywhere in a city having a population of one million or more other than  
35 on lands of the owner of such electric scooter shall be covered by a  
36 policy of insurance, in such language and form as shall be determined  
37 and established by the superintendent of financial services, issued by  
38 an insurance carrier authorized to do business in this state. Such poli-  
39 cy shall provide for coverages required of an "owner's policy of liabil-  
40 ity insurance" as set forth in paragraph (a) of subdivision four of  
41 section three hundred eleven of this chapter. In lieu of such insurance  
42 coverage as hereinabove provided, the commissioner, in his or her  
43 discretion and upon application of a governmental agency having regis-  
44 tered in its name one or more electric scooters, may waive the require-  
45 ment of insurance by a private insurance carrier and issue a certificate  
46 of self-insurance, when he or she is satisfied that such governmental  
47 agency is possessed of financial ability to respond to judgments  
48 obtained against it, arising out of the ownership, use or operation of  
49 such electric scooters. The commissioner may also waive the requirement  
50 of insurance by a private insurance carrier and issue a certificate of  
51 self-insurance upon application of any person or any other corporation,  
52 having registered in its name, one or more electric scooters and  
53 furnishing of proof that a certificate of self-insurance has been issued  
54 and is in effect pursuant to the provisions of section three hundred  
55 sixteen of this chapter.

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

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

18 4. No owner of an electric scooter shall operate or permit the same to  
19 be operated anywhere in this state other than on lands of the owner of  
20 the electric scooter without having in full force and effect the liabil-  
21 ity insurance coverage required by this section, and no person shall  
22 operate an electric scooter anywhere in this state other than on lands  
23 of the owner of the electric scooter with the knowledge that such insur-  
24 ance is not in full force and effect.

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

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

51 § 4. This act shall take effect on the one hundred twentieth day after  
52 it shall have become a law. Effective immediately, the addition, amend-  
53 ment and/or repeal of any rule or regulation necessary for the implemen-  
54 tation of this act on its effective date are authorized to be made and  
55 completed on or before such effective date.