

STATE OF NEW YORK

7940

2023-2024 Regular Sessions

IN ASSEMBLY

August 4, 2023

Introduced by M. of A. CUNNINGHAM -- read once and referred to the
Committee on Insurance

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 Assem-
bly, 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. Subsection (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.