

# STATE OF NEW YORK

9209

## IN SENATE

May 6, 2024

Introduced by Sen. ADDABBO -- 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 the regulation of the operation of motorized scooters

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 123-a to read as follows:

3 § 123-a. Motorized scooter. Any wheeled device that has handlebars  
4 that is designed to be stood or sat upon by the operator, is powered by  
5 an electric motor or by a gasoline motor that is capable of propel-  
6 ling the device without human power, and is not a bicycle with elec-  
7 tric assist, electric scooter, motorcycle, wheelchair, or electrically  
8 driven mobility assistance device.

9 § 2. Section 125 of the vehicle and traffic law, as amended by section  
10 3 of part XX of chapter 58 of the laws of 2020, is amended to read as  
11 follows:

12 § 125. Motor vehicles. Every vehicle operated or driven upon a public  
13 highway which is propelled by any power other than muscular power,  
14 except (a) electrically-driven mobility assistance devices operated or  
15 driven by a person with a disability, (a-1) electric personal assistive  
16 mobility devices operated outside a city with a population of one  
17 million or more, (b) vehicles which run only upon rails or tracks, (c)  
18 snowmobiles as defined in article forty-seven of this chapter, (d) all  
19 terrain vehicles as defined in article forty-eight-B of this chapter,  
20 (e) bicycles with electric assist as defined in section one hundred  
21 two-c of this article, [~~and~~] (f) electric scooters as defined in section  
22 one hundred fourteen-e of this article, and (g) motorized scooters as  
23 defined in section one hundred twenty-three-a of this article. For the  
24 purposes of title four of this chapter, the term motor vehicle shall  
25 exclude fire and police vehicles other than ambulances. For the purposes  
26 of titles four and five of this chapter the term motor vehicles shall  
27 exclude farm type tractors and all terrain type vehicles used exclusive-  
28 ly for agricultural purposes, or for snow plowing, other than for hire,

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

LBD14890-02-4

1 farm equipment, including self-propelled machines used exclusively in  
2 growing, harvesting or handling farm produce, and self-propelled cater-  
3 pillar or crawler-type equipment while being operated on the contract  
4 site.

5 § 3. The vehicle and traffic law is amended by adding a new article  
6 34-E to read as follows:

7 ARTICLE 34-E

8 OPERATION OF MOTORIZED SCOOTERS

9 Section 1290. Effect of regulations.

10 1291. Traffic laws apply to persons operating motorized scoot-  
11 ers; local laws.

12 1292. Operating motorized scooters.

13 1293. Clinging to vehicles.

14 1294. Riding on roadways, shoulders, and lanes reserved for  
15 non-motorized vehicles and devices.

16 1295. Lamps and other equipment.

17 1296. Operators to wear protective headgear.

18 1297. Leaving the scene of an incident involving a motorized  
19 scooter without reporting in the second degree.

20 1298. Leaving the scene of an incident involving a motorized  
21 scooter without reporting in the first degree.

22 1299. Operation of a motorized scooter while under the influence  
23 of alcohol or drugs.

24 1300. Registration and inspection of motorized scooters.

25 1301. Liability insurance.

26 § 1290. Effect of regulations. 1. The parent of any child and the  
27 guardian of any ward shall not authorize or knowingly permit any such  
28 child or ward to violate any of the provisions of this article.

29 2. These regulations applicable to motorized scooters shall apply  
30 whenever a motorized scooter is operated upon any highway, upon private  
31 roads open to public motor vehicle traffic and upon any path set aside  
32 for the exclusive use of bicycles, in-line skates, electric scooters,  
33 motorized scooters or all.

34 § 1291. Traffic laws apply to persons operating motorized scooters;  
35 local laws. 1. Every person riding a motorized scooter upon a roadway  
36 shall be granted all of the rights and shall be subject to all of the  
37 duties applicable to the driver of a vehicle and the rider of a bicycle  
38 by this title, except as to special regulations in this article and  
39 except as to those provisions of this title which by their nature can  
40 have no application.

41 2. (a) Except as provided in paragraphs (b) and (c) of this subdivi-  
42 sion, the governing body of any city, town or village may, by local law  
43 or ordinance, further regulate the time, place and manner of the opera-  
44 tion of motorized scooters, including, but not limited to, maximum  
45 speed, requiring the use of protective headgear, and the wearing of  
46 readily visible reflective clothing or material by operators of motor-  
47 ized scooters, and may limit, prohibit the use thereof in specified  
48 areas, or prohibit entirely the use of motorized scooters within such  
49 city, town, or village, provided that adequate signage is visibly posted  
50 outside the boundaries of such prohibited areas.

51 (b) The governing body of any city, town or village in the counties of  
52 Nassau or Suffolk may, by local law or ordinance, further regulate the  
53 time, place and manner of the operation of motorized scooters, includ-  
54 ing, but not limited to, maximum speed, requiring the use of protective  
55 headgear, and the wearing of readily visible reflective clothing or  
56 material by operators of motorized scooters only after adoption of a

1 local law or ordinance by the governing body of the county in which the  
2 city, town or village is located. Provided, however, that the provisions  
3 of this paragraph shall not apply to the adoption of a local law or  
4 ordinance by a city, town or village in the counties of Nassau or  
5 Suffolk pursuant to the provisions of paragraph (a) of this subdivision  
6 to prohibit the use of motorized scooters in specified areas, or prohib-  
7 it entirely the use of motorized scooters within such city, town or  
8 village, provided that adequate signage is visibly posted outside the  
9 boundaries of such prohibited areas.

10 (c) The governing body of any town or village in the county of West-  
11 chester may, by local law or ordinance, further regulate the time, place  
12 and manner of the operation of motorized scooters, including, but not  
13 limited to, maximum speed, requiring the use of protective headgear, and  
14 the wearing of readily visible reflective clothing or material by opera-  
15 tors of motorized scooters only after adoption of a local law or ordi-  
16 nance by the governing body of Westchester county. Provided, however,  
17 that the provisions of this paragraph shall not apply to the adoption of  
18 a local law or ordinance by a town or village in the county of Westches-  
19 ter pursuant to the provisions of paragraph (a) of this subdivision to  
20 prohibit the use of motorized scooters in specified areas, or prohibit  
21 entirely the use of motorized scooters within such town or village,  
22 provided that adequate signage is visibly posted outside the boundaries  
23 of such prohibited areas.

24 3. No person shall operate a motorized scooter unless such operation  
25 is in compliance with the provisions of this chapter, and any regulation  
26 or order or local law or ordinance adopted pursuant to this article.

27 § 1292. Operating motorized scooters. 1. No motorized scooter shall be  
28 used to carry more than one person at one time. No person operating an  
29 motorized scooter shall carry any person as a passenger in a pack  
30 fastened to the operator or fastened to the motorized scooter. The  
31 failure of any person to comply with the provisions of this subdivision  
32 shall not constitute contributory negligence or assumption of risk, and  
33 shall not in any way bar, preclude or foreclose an action for personal  
34 injury or wrongful death by or on behalf of such person, nor in any way  
35 diminish or reduce the damages recoverable in any such action.

36 2. No person operating a motorized scooter shall carry any package,  
37 bundle or article which prevents the operator from keeping at least one  
38 hand upon the handlebars or which obstructs such operator's vision in  
39 any direction.

40 3. Every person operating a motorized scooter shall yield the right of  
41 way to pedestrians.

42 4. No person less than sixteen years of age shall operate or ride as a  
43 passenger upon a motorized scooter, and no person sixteen years of age  
44 or older shall allow any person less than sixteen years of age to oper-  
45 ate or ride as a passenger upon such scooter.

46 5. Except as may be otherwise provided by local law, ordinance, order,  
47 rule or regulation enacted or promulgated pursuant to this article, a  
48 motorized scooter may only be operated on highways with a posted speed  
49 limit of thirty miles per hour or less, including non-interstate public  
50 highways, private roads open to motor vehicle traffic, and designated  
51 bicycle or in-line skate lanes.

52 6. No person shall operate a motorized scooter in excess of fifteen  
53 miles per hour.

54 7. (a) No person shall operate a motorized scooter on a sidewalk,  
55 except as may be authorized by a local law or ordinance adopted by a  
56 city, town or village having jurisdiction over such sidewalk including

1 parking on certain sidewalks within such city, town or village in  
2 compliance with the federal Americans with Disabilities Act of 1990, as  
3 amended (Public Law 101-336).

4 (b) Notwithstanding the provisions of paragraph (a) of this subdivi-  
5 sion, a motorized scooter owned by a natural person where the owner is  
6 engaged in personal use may park on a sidewalk whether attended or unat-  
7 tended, provided however that no person shall park a motorized scooter  
8 pursuant to this paragraph in a manner that interferes with the free  
9 passage of pedestrians on a sidewalk. A city, town or village having  
10 jurisdiction over such sidewalk shall provide a method by which a motor-  
11 ized scooter owned by a natural person may be identified as such.

12 8. (a) No person shall operate a motorized scooter on any public lands  
13 or property, other than a highway exclusive of any greenway running  
14 adjacent to or connected with a highway, except that a motorized scooter  
15 may be operated on any such lands that have been designated and posted  
16 for travel by motorized scooters in accordance with the provisions of  
17 paragraph (b) of this subdivision. For the purposes of this subdivision,  
18 the term "greenway" shall have the same meaning as such term is defined  
19 by subdivision seven of section 44-0103 of the environmental conserva-  
20 tion law and subdivision one of section 39.03 of the parks, recreation  
21 and historic preservation law.

22 (b) A state agency, by regulation or order, and a city, town or  
23 village, by local law or ordinance, may designate any appropriate public  
24 lands and properties under its jurisdiction, other than highways exclu-  
25 sive of any greenway running adjacent to or connected with a highway, as  
26 a place open for travel by motorized scooters upon written request for  
27 such designation by any person, and may impose restrictions and condi-  
28 tions for the regulation and safe operation of motorized scooters on  
29 such public lands or property, such as travel on designated trails and  
30 hours of operation.

31 9. (a) No person, firm, association or corporation engaged in the  
32 business of selling or leasing motorized scooters shall sell or lease  
33 any motorized scooter on or after June first, two thousand twenty-five  
34 unless such motorized scooter has permanently affixed thereto, in a  
35 prominent location, a manufacturer's label which shall include the  
36 following information: the maximum motor-assisted speed, the number of  
37 persons for which such motorized scooter is designed and equipped, and  
38 motor wattage of such motorized scooter, if applicable. Manufacturers  
39 and distributors of motorized scooters shall, by April first, two thou-  
40 sand twenty-five, establish a process by which an owner of a motorized  
41 scooter may request and obtain a manufacturer's label providing the  
42 maximum motor-assisted speed, the number of persons for which such  
43 motorized scooter is designed and equipped, and motor wattage applicable  
44 to the motorized scooter, if applicable, purchased prior to June first,  
45 two thousand twenty-five and installation instructions from such  
46 manufacturers and distributors.

47 (b) No person shall operate a motorized scooter on any public highway  
48 or street in this state after June first, two thousand twenty-five  
49 unless such motorized scooter has permanently affixed thereto, in a  
50 prominent location, a manufacturer's label providing the maximum motor-  
51 assisted speed, the number of persons for which such motorized scooter  
52 is designed and equipped, and motor wattage of such motorized scooter.  
53 Any person who violates the provisions of this paragraph shall be  
54 punished by a civil fine of up to fifty dollars. The court shall waive  
55 any fine for which a person who violates the provisions of this para-  
56 graph would be liable if such person supplies the court with proof that,

1 between the date on which such person is charged with having violated  
2 this paragraph and the appearance date for such violation, a manufactur-  
3 er's label was affixed to the motorized scooter as required by this  
4 paragraph. Provided, however, that such waiver of fine shall not apply  
5 to a second or subsequent conviction under this paragraph.

6 10. (a) The governing body of any city, town or village may, by local  
7 law, ordinance, order, rule or regulation, authorize and regulate shared  
8 motorized scooter systems within such city, town or village. No such  
9 shared systems shall operate within a city, town or village except as  
10 authorized by such local law, ordinance, order, rule or regulation. No  
11 such shared motorized scooter system shall operate on public highways in  
12 a county with a population of no less than one million five hundred  
13 eighty-five thousand and no more than one million five hundred eighty-  
14 seven thousand as of the two thousand ten decennial census. For the  
15 purposes of this subdivision, the term shared motorized scooter system  
16 shall mean a network of self-service and publicly available motorized  
17 scooters, and related infrastructure, in which a motorized scooter trip  
18 begins and/or ends on any public highway.

19 (b) Notwithstanding any other provision of law to the contrary, all  
20 trip data, personal information, images, videos, and other recorded  
21 images collected by any shared motorized scooter system which is author-  
22 ized to operate within a city, town or village pursuant to this section:  
23 (i) shall be for the exclusive use of such shared motorized scooter  
24 system and shall not be sold, distributed or otherwise made available  
25 for any commercial purpose and (ii) shall not be disclosed or otherwise  
26 made accessible except: (1) to the person who is the subject of such  
27 data, information or record; or (2) if necessary to comply with a lawful  
28 court order, judicial warrant signed by a judge appointed pursuant to  
29 article III of the United States constitution, or subpoena for individ-  
30 ual data, information or records properly issued pursuant to the crimi-  
31 nal procedure law or the civil practice law and rules. Provided, howev-  
32 er, that nothing contained in this paragraph shall be deemed to preclude  
33 the exchange of such data, information or recorded images solely for the  
34 purpose of administering such authorized shared system.

35 For the purposes of this subdivision, "personal information" shall  
36 mean information that identifies an individual, including but not limit-  
37 ed to name, address, telephone number, and the type and form of payment  
38 including credit card number, debit card number, or other payment meth-  
39 od.

40 11. A violation of the provisions of subdivision one, two, three,  
41 four, six, or seven of this section shall result in a civil fine not to  
42 exceed fifty dollars.

43 12. A police officer shall only issue a summons for a violation of  
44 this section by a person less than sixteen years of age to the parent or  
45 guardian of such person if the violation by such person occurs in the  
46 presence of such person's parent or guardian and where such parent or  
47 guardian is eighteen years of age or more. Such summons shall only be  
48 issued to such parent or guardian, and shall not be issued to the person  
49 less than sixteen years of age.

50 § 1293. Clinging to vehicles. 1. No person operating a motorized  
51 scooter shall attach such scooter, or themself, to any vehicle being  
52 operated upon a roadway.

53 2. No vehicle operator shall knowingly permit any person to attach any  
54 motorized scooter, or themself, to such operator's vehicle in violation  
55 of subdivision one of this section.

1 § 1294. Riding on roadways, shoulders, and lanes reserved for non-mo-  
2 torized vehicles and devices. 1. Upon all roadways, any motorized scoot-  
3 er shall be operated either on a usable bicycle or in-line skate lane  
4 or, if a usable bicycle or in-line skate lane has not been provided,  
5 near the right-hand curb or edge of the roadway or upon a usable right-  
6 hand shoulder in such a manner as to prevent undue interference with the  
7 flow of traffic except when preparing for a left turn or when reasonably  
8 necessary to avoid conditions that would make it unsafe to continue  
9 along near the right-hand curb or edge. Conditions to be taken into  
10 consideration include, but are not limited to, fixed or moving objects,  
11 vehicles, bicycles, in-line skates, pedestrians, animals, surface  
12 hazards or traffic lanes too narrow for a person operating a motorized  
13 scooter and a vehicle to travel safely side-by-side within the lane.

14 2. Persons operating motorized scooters upon a roadway shall ride  
15 single file. Persons operating motorized scooters upon a shoulder, bicy-  
16 cle or in-line skate lane, or bicycle or in-line skate path intended for  
17 the use of bicycles, in-line skates or motorized scooters may ride two  
18 or more abreast if sufficient space is available, except that when pass-  
19 ing a vehicle, bicycle, motorized personal assistive mobility device,  
20 person on in-line skates or pedestrian standing or proceeding along such  
21 shoulder, lane or path, persons operating motorized scooters shall oper-  
22 ate such scooters single file.

23 3. Any person operating a motorized scooter who is entering a roadway  
24 from a private road, driveway, alley or over a curb shall come to a full  
25 stop before entering the roadway.

26 § 1295. Lamps and other equipment. 1. Every motorized scooter when in  
27 use during the period from one-half hour after sunset to one-half hour  
28 before sunrise shall be equipped with a lamp on the front which shall  
29 emit a white light visible during hours of darkness from a distance of  
30 at least five hundred feet to the front and with a red light visible to  
31 the rear for three hundred feet. At least one such light shall be visi-  
32 ble for two hundred feet from each side.

33 2. No person shall operate a motorized scooter unless such scooter is  
34 equipped with a bell or other device capable of giving a signal audible  
35 for a distance of at least one hundred feet, except that a motorized  
36 scooter shall not be equipped with nor shall any person use upon a  
37 motorized scooter any siren or whistle.

38 3. Every motorized scooter shall be equipped with a brake that enables  
39 the operator to bring the motorized scooter to a controlled stop.

40 § 1296. Operators to wear protective headgear. 1. No person sixteen  
41 or seventeen years of age shall ride upon, propel or otherwise operate a  
42 motorized scooter unless such person is wearing a helmet meeting stand-  
43 ards established by the commissioner pursuant to the provisions of  
44 subdivision two-a of section twelve hundred thirty-eight of this title.  
45 As used in this subdivision, wearing a helmet means having a properly  
46 fitting helmet fixed securely on the head of such wearer with the helmet  
47 straps securely fastened.

48 2. Any person who violates the provisions of subdivision one of this  
49 section shall pay a civil fine not to exceed fifty dollars.

50 3. The court shall waive any fine for which a person who violates the  
51 provisions of subdivision one of this section would be liable if such  
52 person supplies the court with proof that between the date of violation  
53 and the appearance date for such violation such person purchased or  
54 rented a helmet, which meets the requirements of subdivision one of this  
55 section, or if the court finds that due to reasons of economic hardship  
56 such person was unable to purchase a helmet or due to such economic

1 hardship such person was unable to obtain a helmet from the statewide  
2 in-line skate and bicycle helmet distribution program, as established in  
3 section two hundred six of the public health law or a local distribution  
4 program. Such waiver of fine shall not apply to a second or subsequent  
5 violation of subdivision one of this section.

6 4. The failure of any person to comply with the provisions of this  
7 section shall not constitute contributory negligence or assumption of  
8 risk, and shall not in any way bar, preclude or foreclose an action for  
9 personal injury or wrongful death by or on behalf of such person, nor in  
10 any way diminish or reduce the damages recoverable in any such action.

11 § 1297. Leaving the scene of an incident involving a motorized scooter  
12 without reporting in the second degree. 1. Any person age eighteen years  
13 or older operating a motorized scooter who, knowing or having cause to  
14 know, that physical injury, as defined in subdivision nine of section  
15 10.00 of the penal law, has been caused to another person, due to the  
16 operation of such motorized scooter by such person, shall, before leav-  
17 ing the place where such physical injury occurred, stop, and provide  
18 their name and residence, including street and street number, to the  
19 injured party, if practical, and also to a police officer, or in the  
20 event that no police officer is in the vicinity of the place of said  
21 injury, then such person shall report such incident as soon as phys-  
22 ically able to the nearest police station or judicial officer.

23 2. Leaving the scene of an incident involving a motorized scooter  
24 without reporting in the second degree is a violation.

25 § 1298. Leaving the scene of an incident involving a motorized scooter  
26 without reporting in the first degree. 1. Any person age eighteen years  
27 or older operating an motorized scooter who, knowing or having cause to  
28 know, that serious physical injury, as defined in subdivision ten of  
29 section 10.00 of the penal law, has been caused to another person, due  
30 to the operation of such motorized scooter by such person, shall, before  
31 leaving the place where such serious physical injury occurred, stop, and  
32 provide their name and residence, including street and street number, to  
33 the injured party, if practical, and also to a police officer, or in the  
34 event that no police officer is in the vicinity of the place of said  
35 injury, then such person shall report said incident as soon as phys-  
36 ically able to the nearest police station or judicial officer.

37 2. Leaving the scene of an incident involving a motorized scooter  
38 without reporting in the first degree is a class B misdemeanor.

39 § 1299. Operation of a motorized scooter while under the influence of  
40 alcohol or drugs. 1. Offenses; criminal penalties. (a) Operating a  
41 motorized scooter while ability impaired. No person shall operate a  
42 motorized scooter while the person's ability to operate such motorized  
43 scooter is impaired by the consumption of alcohol.

44 (i) A violation of this paragraph shall be a traffic infraction and  
45 shall be punishable by a fine of not more than three hundred dollars, or  
46 by imprisonment in a penitentiary or county jail for not more than  
47 fifteen days, or by both such fine and imprisonment.

48 (ii) A person who operates a motorized scooter in violation of this  
49 paragraph after having been convicted of a violation of any paragraph of  
50 this subdivision within the preceding five years shall be punished by a  
51 fine of not more than seven hundred fifty dollars, or by imprisonment of  
52 not more than thirty days in a penitentiary or county jail or by both  
53 such fine and imprisonment.

54 (iii) A person who operates a motorized scooter in violation of this  
55 paragraph after being convicted two or more times of a violation of any  
56 paragraph of this subdivision within the preceding ten years shall be

1 guilty of a misdemeanor, and shall be punished by a fine of not more  
2 than one thousand dollars, or by imprisonment of not more than one  
3 hundred eighty days in a penitentiary or county jail or by both such  
4 fine and imprisonment.

5 (b) Operating a motorized scooter while intoxicated; per se. No  
6 person shall operate an motorized scooter while such person has .08 of  
7 one per centum or more by weight of alcohol in the person's blood as  
8 shown by chemical analysis of such person's blood, breath, urine or  
9 saliva, made pursuant to the provisions of subdivision five of this  
10 section.

11 (c) Operating a motorized scooter while intoxicated. No person shall  
12 operate a motorized scooter while in an intoxicated condition.

13 (d) Operating a motorized scooter while ability impaired by drugs. No  
14 person shall operate a motorized scooter while the person's ability to  
15 operate such motorized scooter is impaired by the use of a drug as  
16 defined in this chapter.

17 (e) Operating a motorized scooter while ability impaired by the  
18 combined influence of drugs or of alcohol and any drug or drugs. No  
19 person shall operate a motorized scooter while the person's ability to  
20 operate such motorized scooter is impaired by the combined influence of  
21 drugs or of alcohol and any drug or drugs.

22 (f) Penalty. (i) A violation of paragraph (b), (c), (d) or (e) of this  
23 subdivision shall be a misdemeanor and shall be punishable by a fine of  
24 not more than five hundred dollars, or by imprisonment in a penitentiary  
25 or county jail for not more than one year, or by both such fine and  
26 imprisonment.

27 (ii) A person who operates a motorized scooter in violation of para-  
28 graph (b), (c), (d) or (e) of this subdivision after having been  
29 convicted of a violation of paragraph (b), (c), (d) or (e) of this  
30 subdivision within the preceding ten years shall be guilty of a class E  
31 felony, and shall be punished by a fine of not more than one thousand  
32 dollars or by a period of imprisonment as provided in the penal law, or  
33 by both such fine and imprisonment.

34 (iii) A person who operates a motorized scooter in violation of para-  
35 graph (b), (c), (d) or (e) of this subdivision after having been  
36 convicted of a violation of paragraph (b), (c), (d) or (e) of this  
37 subdivision two or more times within the preceding ten years shall be  
38 guilty of a class E felony, and shall be punished by a fine of not more  
39 than four thousand dollars or by a period of imprisonment as provided in  
40 the penal law, or by both such fine and imprisonment.

41 2. Certain sentences prohibited. Notwithstanding any provisions of the  
42 penal law, no judge or magistrate shall impose a sentence of uncondi-  
43 tional discharge for a violation of paragraph (b), (c), (d) or (e) of  
44 subdivision one of this section.

45 3. Sentencing: previous convictions. When sentencing a person for a  
46 violation of paragraph (b), (c), (d) or (e) of subdivision one of this  
47 section pursuant to subparagraph (ii) of paragraph (f) of subdivision  
48 one of this section, the court shall consider any prior convictions the  
49 person may have for a violation of subdivision two, two-a, three, four,  
50 or four-a of section eleven hundred ninety-two of this title within the  
51 preceding ten years. When sentencing a person for a violation of para-  
52 graph (b), (c), (d) or (e) of subdivision one of this section pursuant  
53 to subparagraph (iii) of paragraph (f) of subdivision one of this  
54 section, the court shall consider any prior convictions the person may  
55 have for a violation of subdivision two, two-a, three, four, or four-a  
56 of section eleven hundred ninety-two of this title within the preceding

1 ten years. When sentencing a person for a violation of subparagraph (ii)  
2 of paragraph (a) of subdivision one of this section, the court shall  
3 consider any prior convictions the person may have for a violation of  
4 any subdivision of section eleven hundred ninety-two of this title with-  
5 in the preceding five years. When sentencing a person for a violation of  
6 subparagraph (iii) of paragraph (a) of subdivision one of this section,  
7 the court shall consider any prior convictions the person may have for a  
8 violation of any subdivision of section eleven hundred ninety-two of  
9 this title within the preceding ten years.

10 4. Arrest and field testing. (a) Arrest. Notwithstanding the  
11 provisions of section 140.10 of the criminal procedure law, a police  
12 officer may, without a warrant, arrest a person, in case of a violation  
13 of any paragraph of subdivision one of this section, if such violation  
14 is coupled with an accident or collision in which such person is  
15 involved, which in fact had been committed, though not in the police  
16 officer's presence, when the officer has reasonable cause to believe  
17 that the violation was committed by such person. For the purposes of  
18 this subdivision, police officer shall also include a peace officer  
19 authorized to enforce this chapter when the alleged violation consti-  
20 tutes a crime.

21 (b) Field testing. Every person operating a motorized scooter which  
22 has been involved in an accident shall, at the request of a police offi-  
23 cer, submit to a breath test to be administered by the police officer.  
24 If such test indicates that such operator has consumed alcohol, the  
25 police officer may request such operator to submit to a chemical test in  
26 the manner set forth in subdivision five of this section.

27 5. Chemical tests; when authorized. A police officer may request any  
28 person who operates a motorized scooter in this state to consent to a  
29 chemical test of one or more of the following: breath, blood, urine, or  
30 saliva, for the purpose of determining the alcoholic and/or drug content  
31 of such person's blood, provided that such test is administered at the  
32 direction of a police officer with respect to a chemical test of breath,  
33 urine or saliva or, with respect to a chemical test of blood, at the  
34 direction of a police officer: (a) having reasonable grounds to believe  
35 such person to have been operating in violation of paragraph (a), (b),  
36 (c), (d) or (e) of subdivision one of this section and within two hours  
37 after such person has been placed under arrest for any such violation;  
38 or (b) within two hours after a breath test, as provided in paragraph  
39 (b) of subdivision four of this section, indicates that alcohol has been  
40 consumed by such person and in accordance with the rules and regulations  
41 established by the police force of which the officer is a member.

42 6. Testing procedures. (a) Persons authorized to withdraw blood; immu-  
43 nity; testimony. (i) At the request of a police officer, the following  
44 persons may withdraw blood for the purpose of determining the alcoholic  
45 or drug content therein: (A) a physician, a registered professional  
46 nurse, a registered physician assistant, a certified nurse practitioner,  
47 or an advanced emergency medical technician as certified by the depart-  
48 ment of health; or (B) under the supervision and at the direction of a  
49 physician, registered physician assistant or certified nurse practition-  
50 er acting within their lawful scope of practice, or upon the express  
51 consent of the person eighteen years of age or older from whom such  
52 blood is to be withdrawn: a clinical laboratory technician or clinical  
53 laboratory technologist licensed pursuant to article one hundred sixty-  
54 five of the education law; a phlebotomist; or a medical laboratory tech-  
55 nician or medical technologist employed by a clinical laboratory  
56 approved under title five of article five of the public health law. This

1 limitation shall not apply to the taking of a urine, saliva or breath  
2 specimen.

3 (ii) No person entitled to withdraw blood pursuant to subparagraph one  
4 of this paragraph or hospital employing such person, and no other  
5 employer of such person shall be sued or held liable for any act done or  
6 omitted in the course of withdrawing blood at the request of a police  
7 officer pursuant to this section.

8 (iii) Any person who may have a cause of action arising from the with-  
9 drawal of blood as aforesaid, for which no personal liability exists  
10 under subparagraph (ii) of this paragraph, may maintain such action  
11 against the state if any person entitled to withdraw blood pursuant to  
12 this paragraph acted at the request of a police officer employed by the  
13 state, or against the appropriate political subdivision of the state if  
14 such person acted at the request of a police officer employed by a poli-  
15 tical subdivision of the state. No action shall be maintained pursuant  
16 to this subparagraph unless notice of claim is duly filed or served in  
17 compliance with law.

18 (iv) Notwithstanding subparagraphs (i), (ii) and (iii) of this para-  
19 graph an action may be maintained by the state or a political subdivi-  
20 sion thereof against a person entitled to withdraw blood pursuant to  
21 subparagraph (i) of this paragraph or hospital employing such person for  
22 whose act or omission the state or the political subdivision has been  
23 held liable under this paragraph to recover damages, not exceeding the  
24 amount awarded to the claimant, that may have been sustained by the  
25 state or the political subdivision by reason of gross negligence or bad  
26 faith on the part of such person.

27 (v) The testimony of any person other than a physician, entitled to  
28 withdraw blood pursuant to subparagraph (i) of this paragraph, in  
29 respect to any such withdrawal of blood made by such person may be  
30 received in evidence with the same weight, force and effect as if such  
31 withdrawal of blood were made by a physician.

32 (vi) The provisions of subparagraphs (ii), (iii) and (iv) of this  
33 paragraph shall also apply with regard to any person employed by a  
34 hospital as security personnel for any act done or omitted in the course  
35 of withdrawing blood at the request of a police officer pursuant to this  
36 section.

37 (b) Right to additional test. The person tested shall be permitted to  
38 choose a physician to administer a chemical test in addition to the one  
39 administered at the direction of the police officer.

40 (c) Rules and regulations. The department of health shall issue and  
41 file rules and regulations approving satisfactory techniques or methods  
42 of conducting chemical analyses of a person's blood, urine, breath or  
43 saliva and to ascertain the qualifications and competence of individuals  
44 to conduct and supervise chemical analyses of a person's blood, urine,  
45 breath or saliva. If the analyses were made by an individual possessing  
46 a permit issued by the department of health, this shall be presumptive  
47 evidence that the examination was properly given. The provisions of this  
48 paragraph do not prohibit the introduction as evidence of an analysis  
49 made by an individual other than a person possessing a permit issued by  
50 the department of health.

51 7. Chemical test evidence. (a) Admissibility. Upon the trial of any  
52 such action or proceeding arising out of actions alleged to have been  
53 committed by any person arrested for a violation of any paragraph of  
54 subdivision one of this section, the court shall admit evidence of the  
55 amount of alcohol or drugs in the defendant's blood as shown by a test

1 administered pursuant to the provisions of subdivision five of this  
2 section.

3 (b) Probative value. The following effect shall be given to evidence  
4 of blood-alcohol content, as determined by such tests, of a person  
5 arrested for a violation of subdivision one of this section:

6 (i) evidence that there was .05 of one per centum or less by weight of  
7 alcohol in such person's blood shall be prima facie evidence that the  
8 ability of such person to operate a motorized scooter was not impaired  
9 by the consumption of alcohol, and that such person was not in an intox-  
10 icated condition;

11 (ii) evidence that there was more than .05 of one per centum but less  
12 than .07 of one per centum by weight of alcohol in such person's blood  
13 shall be prima facie evidence that such person was not in an intoxicated  
14 condition, but such evidence shall be relevant evidence, but shall not  
15 be given prima facie effect, in determining whether the ability of such  
16 person to operate a motorized scooter was impaired by the consumption of  
17 alcohol; and

18 (iii) evidence that there was .07 of one per centum or more but less  
19 than .08 of one per centum by weight of alcohol in such person's blood  
20 shall be prima facie evidence that such person was not in an intoxicated  
21 condition, but such evidence shall be given prima facie effect in deter-  
22 mining whether the ability of such person to operate a motorized scooter  
23 was impaired by the consumption of alcohol.

24 8. Where applicable. The provisions of this section shall apply upon  
25 public highways, private roads open to motor vehicle traffic, any other  
26 parking lot, and sidewalks. For the purposes of this section "parking  
27 lot" shall mean any area or areas of private property, including a  
28 driveway, near or contiguous to and provided in connection with premises  
29 and used as a means of access to and egress from a public highway to  
30 such premises and having a capacity for the parking of four or more  
31 motor vehicles. The provisions of this section shall not apply to any  
32 area or areas of private property comprising all or part of property on  
33 which is situated a one or two family residence.

34 9. Enforcement upon crash. Notwithstanding any provision of this  
35 section, no part of this section may be enforced unless in conjunction  
36 with a crash involving an operator of a motorized scooter. For the  
37 purposes of this subdivision, "crash" shall mean colliding with a vehi-  
38 cle, person, building or other object.

39 § 1300. Registration and inspection of motorized scooters. 1. Every  
40 motorized scooter, of any class, as defined in section one hundred twen-  
41 ty-three-a of this chapter shall be registered and issued a number plate  
42 by the department. No person shall operate a motorized scooter unless  
43 such device shall have a distinctive number assigned to it by the  
44 commissioner and a number plate issued by the commissioner with a number  
45 corresponding to that of the certificate of registration.

46 2. Such number plates shall be of such material, form, design and  
47 dimensions and contain or set forth such distinguishing number or other  
48 identification marks as the commissioner shall prescribe, provided,  
49 however, that there shall be at all times a marked contrast between the  
50 color of the number plates and that of the numerals or letters thereon.

51 3. Each such number plate shall be conspicuously displayed on the rear  
52 of the motorized scooter, securely fastened so as to prevent the same  
53 from swinging.

54 4. The fee for such number plates shall be determined by the commis-  
55 sioner.

1 5. The commissioner shall require that every motorized scooter in this  
2 state be inspected annually and shall prescribe the standards and the  
3 mechanisms to be inspected; provided that the commissioner shall require  
4 that such inspection shall include inspection of any battery. The  
5 commissioner shall prescribe rules for the issuance of separate  
6 inspection certificates for the scooter and such battery which shall  
7 contain the same serial number but which shall indicate which component  
8 the certificate is for.

9 6. Where there is a violation of this section, the fine for such  
10 violation shall be determined by the commissioner.

11 § 1301. Liability insurance. 1. A motorized scooter which is operated  
12 anywhere other than on lands of the owner of such motorized scooter  
13 shall be covered by a policy of insurance, in such language and form as  
14 shall be determined and established by the superintendent of financial  
15 services, issued by an insurance carrier authorized to do business in  
16 this state. Such policy shall provide for coverage against loss from the  
17 liability imposed by law for damages, including damages for care and  
18 loss of services, because of bodily injury to or death of any person and  
19 injury to or destruction of property arising out of the ownership, main-  
20 tenance, use, or operation of a motorized scooter as defined in section  
21 one hundred twenty-three-a of this chapter, in such amounts as the  
22 superintendent shall prescribe.

23 2. Proof of insurance as required by this section shall be produced  
24 and displayed by the owner or operator of such motorized scooter upon  
25 the request of any person having authority to enforce the provisions of  
26 this chapter. The failure to produce such proof upon the request of any  
27 such person shall not be an offense but shall be presumptive evidence  
28 that such motorized scooter is being operated without having such insur-  
29 ance in force and effect.

30 3. Proof of insurance as required by this section shall be produced  
31 and displayed by the owner or operator of such motorized scooter to any  
32 person who has suffered or claims to have suffered either personal inju-  
33 ry or property damage as a result of the operation of such motorized  
34 scooter by the owner or operator, if such insurance coverage was  
35 required under the circumstances of such operation. It shall be an  
36 affirmative defense to any prosecution for a violation of this subdivi-  
37 sion that such proof was so produced or displayed within twenty-four  
38 hours of receiving notice of such injury or damage, or the claim of such  
39 injury or damage.

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

47 § 4. This act shall take effect immediately; provided, however, that  
48 section three of this act shall take effect on the one hundred twentieth  
49 day after it shall have become a law. Effective immediately, the addi-  
50 tion, amendment and/or repeal of any rule or regulation necessary for  
51 the implementation of this act on its effective date are authorized to  
52 be made and completed on or before such effective date.