

# STATE OF NEW YORK

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2785--A

2023-2024 Regular Sessions

## IN SENATE

January 24, 2023

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Introduced by Sen. SKOUFIS -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the vehicle and traffic law, in relation to required protective headgear for operators of bicycles, skateboards, in-line skates and scooters under eighteen years of age

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The section heading, subdivision 4, paragraphs (a) and (b)  
2 of subdivision 5, and subdivisions 5-a, 5-b, 6, paragraph (a) of subdivi-  
3 vision 8 and subdivision 9 of section 1238 of the vehicle and traffic  
4 law, the section heading, subdivision 6 and paragraph (a) of subdivision  
5 8 as amended by sections 4, 6, and 7 of part XX of chapter 58 of the  
6 laws of 2020, respectively, subdivision 4 as amended by chapter 267 of  
7 the laws of 1993, paragraphs (a) and (b) of subdivision 5 as amended by  
8 chapter 457 of the laws of 1999, subdivision 5-a and subdivision 9 as  
9 amended by chapter 703 of the laws of 2004, subdivision 5-b as added by  
10 chapter 402 of the laws of 2001, are amended to read as follows:

11 Passengers on bicycles under one year of age prohibited; passengers  
12 and operators under [~~fourteen~~ eighteen] years of age to wear protective  
13 headgear; operators of class three bicycles with electric assist to wear  
14 protective headgear.

15 4. The court shall waive any fine for which a person who violates the  
16 provisions of paragraph (a) of subdivision two of this section would be  
17 liable if such person supplies the court with proof that between the  
18 date of violation and the appearance date for such violation such person  
19 purchased or rented a helmet, which meets the requirements of paragraph  
20 (a) of subdivision two of this section. Further, the court shall waive  
21 any fine for which a person who violates the provisions of paragraph (b)  
22 of subdivision two of this section would be liable if such person

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

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1 supplies the court with proof that between the date of violation and the  
2 appearance date for such violation such person purchased or rented a  
3 seat which meets the requirements of paragraph (b) of subdivision two of  
4 this section. The court [~~may~~] shall waive any fine for which a person  
5 who violates the provisions of subdivision two of this section would be  
6 liable if the court finds that due to reasons of economic hardship such  
7 person was unable to purchase a helmet or seat. Such waiver of fine  
8 shall not apply to a second or subsequent conviction under paragraph (a)  
9 or (b) of subdivision two of this section.

10 (a) No person operating a bicycle shall allow a person five or more  
11 years of age and less than [~~fourteen~~] eighteen years of age to ride as a  
12 passenger on a bicycle unless such passenger is wearing a helmet meeting  
13 standards established by the commissioner.

14 (b) No person, one or more years of age and less than [~~fourteen~~] eigh-  
15 teen years of age, shall operate a bicycle unless such person is wearing  
16 a helmet meeting standards established by the commissioner.

17 5-a. No person, one or more years of age and less than [~~fourteen~~]  
18 eighteen years of age, shall skate or glide on in-line skates or a skate  
19 board unless such person is wearing a helmet meeting standards estab-  
20 lished by the commissioner. For the purposes of this subdivision, wear-  
21 ing a helmet means having a helmet of good fit fastened securely on the  
22 head of such wearer with the helmet straps securely fastened.

23 5-b. No person less than [~~fourteen~~] eighteen years of age shall ride  
24 upon, propel or otherwise operate a two-wheeled vehicle commonly called  
25 a scooter unless such person is wearing a helmet meeting standards  
26 established by the commissioner. As used in this subdivision, wearing a  
27 helmet means having a properly fitting helmet fixed securely on the head  
28 of such wearer with the helmet straps securely fastened.

29 6. (a) Any person who violates the provisions of subdivision five,  
30 five-a, five-b or five-c of this section shall pay a civil fine not to  
31 exceed fifty dollars.

32 (b) The court shall waive any fine for which a person who violates the  
33 provisions of subdivision five, five-a, five-b or subdivision five-c of  
34 this section would be liable if such person supplies the court with  
35 proof that between the date of violation and the appearance date for  
36 such violation such person purchased or rented a helmet.

37 (c) The court [~~may~~] shall waive any fine for which a person who  
38 violates the provisions of subdivision five, five-a, five-b, or five-c  
39 of this section would be liable if the court finds that due to reasons  
40 of economic hardship such person was unable to purchase a helmet or due  
41 to such economic hardship such person was unable to obtain a helmet from  
42 the statewide in-line skate and bicycle helmet distribution program, as  
43 established in section two hundred six of the public health law, or a  
44 local distribution program. Such waiver of a fine shall not apply to a  
45 second or subsequent violation of subdivision five-c of this section.

46 (a) A police officer shall only issue a summons for a violation of  
47 subdivision two, five, or five-a of this section by a person less than  
48 [~~fourteen~~] eighteen years of age to the parent or guardian of such  
49 person if the violation by such person occurs in the presence of such  
50 person's parent or guardian and where such parent or guardian is eigh-  
51 teen years of age or more. Such summons shall only be issued to such  
52 parent or guardian, and shall not be issued to the person less than  
53 [~~fourteen~~] eighteen years of age.

54 9. Subdivisions five, five-a, five-b, and six of this section shall  
55 not be applicable to any county, city, town or village that has enacted  
56 a local law or ordinance prior to the effective date of this subdivision

1 that prohibits a person who is one or more years of age and less than  
2 [~~fourteen~~ eighteen years of age from operating a bicycle or skating or  
3 gliding on in-line skates or a skate board without wearing a bicycle  
4 helmet meeting the standards of the American National Standards Insti-  
5 tute (Ansi Z 90.4 bicycle helmet standards), the Snell Memorial Founda-  
6 tion's Standards for Protective Headgear for use in Bicycling, or the  
7 American Society of Testing and Materials (ASTM) bike helmet standards,  
8 or that prohibits a person operating a bicycle from allowing a person  
9 five or more years of age and less than [~~fourteen~~ eighteen years of age  
10 to ride as a passenger on a bicycle unless such passenger is wearing a  
11 bicycle helmet that meets such standards. The failure of any person to  
12 comply with any such local law or ordinance shall not constitute contri-  
13 butory negligence or assumption of risk, and shall not in any way bar,  
14 preclude or foreclose an action for personal injury or wrongful death by  
15 or on behalf of such person, nor in any way diminish or reduce the  
16 damages recoverable in any such action. The legislative body of a coun-  
17 ty, city, town or village may enact a local law or ordinance that  
18 prohibits a person who is [~~fourteen~~ eighteen or more years of age from  
19 skating or gliding on in-line skates, operating a skate board, or oper-  
20 ating or riding as a passenger on a bicycle without wearing a bicycle  
21 helmet.

22 § 2. This act shall take effect on the one hundred eightieth day after  
23 it shall have become a law.