STATE OF NEW YORK

5158

2023-2024 Regular Sessions

IN SENATE

February 23, 2023

Introduced by Sen. SEPULVEDA -- 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 establishing an electric scooter operator's safety manual and licensing requirement; to amend the vehicle and traffic law, in relation to requiring instruction in electric scooter safety as part of the drivers pre-licensing course; to amend the vehicle and traffic law and the insurance law, in relation to requiring liability insurance for electric scooters in cities having a population of one million or more; and to amend the vehicle and traffic law, in relation to requirements for the sale and purchase of electric scooters

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 article 12-E to read as follows:

ARTICLE 12-E

ELECTRIC SCOOTER SAFETY EDUCATION COURSE AND LICENSE

Section 399-aa. Electric scooter operator's safety manual.
399-bb. License for the operation of an electric scooter.
399-cc. Rules and regulations.

§ 399-aa. Electric scooter operator's safety manual. The commissioner shall develop and publish an electric scooter operator's safety manual that shall be available for distribution and accessible on the department's website. The manual shall include but not be limited to the following:

(a) an overview of traffic laws governing electric scooters;

(b) the safe operation of electric scooters;

(c) bicycle lanes as defined in section one hundred two-a of this chapter; and

(d) obligations to comply with traffic control devices and markings related to electric scooter operators and pedestrians.

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

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§ 399-bb. License for the operation of an electric scooter. 1. Upon successful comprehension of the electric scooter operator's safety manual, a resident may then make an application to receive a license for the operation of an electric scooter.

2. (a) An application for such license shall be made to the commissioner and shall require an applicant to furnish proof of identity, age, fitness and any other information required by the commissioner. Such application may also require a photographic image of the applicant.

(b) A nominal fee may be prescribed by the commissioner for the issuance, renewal or amendment of a license.

(c) A license shall be valid from the date of issuance until a date of expiration as determined by the commissioner.

§ 399-cc. Rules and regulations. The commissioner shall promulgate such rules and regulations as are necessary to effectuate the provisions of this article. In addition to any requirements expressly authorized by this article, such regulations may include but not be limited to validating that a person has read and comprehends the department's electric scooter operator's safety manual.

§ 2. Subdivision 1 of section 504 of the vehicle and traffic law is amended by adding a new paragraph (a-2) to read as follows:

(a-2) Every license or renewal thereof issued to an applicant who has a license for the operation of an electric scooter and after submission of proof as set forth in this paragraph shall contain a distinguishing mark, in such form as the commissioner shall determine, indicating that he or she has read and comprehends the electric scooter operator's safety manual. Such proof shall consist of a license for the operation of an electric scooter that is provided pursuant to section three hundred ninety-nine-bb of this chapter. The commissioner shall not require fees for the issuance of such licenses or renewals thereof containing an electric scooter operator's safety manual comprehension distinguishing mark which are different from fees otherwise required; provided, however, that notwithstanding the provisions of this section, the commissioner shall not require fees for a duplication or amendment of a license prior to its renewal if such duplication or amendment was solely for the purpose of adding an electric scooter operator's safety manual comprehension distinguishing mark to such license.

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

§ 1290. Operation of an electric scooter is prohibited without a license. No person shall operate an electric scooter on a public roadway in a city with a population of one million or more unless the operator is a holder of a license for the operation of an electric scooter issued to him or her pursuant to article twelve-E of this chapter.

§ 4. Paragraphs (a), (b) and (d) of subdivision 4 of section 502 of the vehicle and traffic law, paragraph (a) as amended by chapter 585 of the laws of 2002, subparagraph (i) of paragraph (a) and paragraphs (b) and (d) as amended by chapter 379 of the laws of 2022, are amended and a new paragraph (c-6) is added to read as follows:

(a) (i) Upon submission of an application for a driver's license, the applicant shall be required to take and pass a test, or submit evidence of passage of a test, with respect to the laws relating to traffic, the laws relating to driving while ability is impaired and while intoxicated, under the overpowering influence of "Road Rage", "Work Zone Safety" awareness, "Motorcycle Safety" awareness, "Electric Scooter Safety" awareness, and "Pedestrian and Bicyclist Safety" awareness as defined by the commissioner, "School Bus Safety" awareness, the law relating to

exercising due care to avoid colliding with a parked, stopped or standing authorized emergency vehicle or hazard vehicle pursuant to section eleven hundred forty-four-a of this chapter, the ability to read and comprehend traffic signs and symbols and such other matters as the commissioner may prescribe, and to satisfactorily complete a course prescribed by the commissioner of not less than four hours and not more than five hours, consisting of classroom driver training and highway safety instruction or the equivalent thereof. Such test shall include at least seven written questions concerning the effects of consumption of alcohol or drugs on the ability of a person to operate a motor vehicle and the legal and financial consequences resulting from violations of section eleven hundred ninety-two of this chapter, prohibiting the operation of a motor vehicle while under the influence of alcohol or drugs. Such test shall include one or more written questions concerning the devastating effects of "Road Rage" on the ability of a person to operate a motor vehicle and the legal and financial consequences resulting from assaulting, threatening or interfering with the lawful conduct of another person legally using the roadway. Such test shall include one or more questions concerning the potential dangers to persons and equipment resulting from the unsafe operation of a motor vehicle in a work zone. Such test may include one or more questions concerning motorcycle safety. Such test may include one or more questions concerning the law for exercising due care to avoid colliding with a parked, stopped or standing vehicle pursuant to section eleven hundred forty-four-a of this chapter. **Such test shall include one or more questions concerning how to safely operate an electric scooter on the road and one or more questions concerning the dangers of motor vehicles to bicyclists and pedestrians and one or more questions concerning the traffic laws governing electric scooters.** Such test may include one or more questions concerning school bus safety. Such test may include one or more questions concerning pedestrian and bicyclist safety. Such test shall be administered by the commissioner. The commissioner shall cause the applicant to take a vision test and a test for color blindness. Upon passage of the vision test, the application may be accepted and the application fee shall be payable.

(ii) The commissioner shall promulgate rules and regulations establishing eligibility standards for the taking and passing of knowledge tests in other than written form.

(b) Upon successful completion of the requirements set forth in paragraph (a) of this subdivision which shall include an alcohol and drug education component as described in paragraph (c) of this subdivision, a "Road Rage" awareness component as described in paragraph (c-1) of this subdivision, a "Work Zone Safety" awareness component as described in paragraph (c-2) of this subdivision, a "Motorcycle Safety" awareness component as described in paragraph (c-3) of this subdivision, a "School Bus Safety" awareness component as described in paragraph (c-4) of this subdivision, [~~and~~] a "Pedestrian and Bicyclist Safety" awareness component as described in paragraph (c-5) of this subdivision, **and an "Electric Scooter Safety" awareness component as described in paragraph (c-6) of this subdivision,** the commissioner shall cause the applicant to take a road test in a representative vehicle of a type prescribed by the commissioner which shall be appropriate to the type of license for which application is made, except that the commissioner may waive the road test requirements for certain classes of applicants. Provided, however, that the term "representative vehicle" shall not include a three-wheeled motor vehicle that has two wheels situated in the front and one wheel in

the rear, has a steering mechanism and seating which does not require the operator to straddle or sit astride, is equipped with safety belts for all occupants and is manufactured to comply with federal motor vehicle safety standards for motorcycles including, but not limited to, 49 C.F.R. part 571. The commissioner shall have the power to establish a program to allow persons other than employees of the department to conduct road tests in representative vehicles when such tests are required for applicants to obtain a class A, B or C license. If she chooses to do so, she shall set forth her reasons in writing and conduct a public hearing on the matter. She shall only establish such a program after holding the public hearing.

(c-6) "Electric Scooter Safety" awareness component. (i) The commissioner shall provide in the pre-licensing course, set forth in paragraph (b) of this subdivision, a mandatory component in "Electric Scooter Safety" awareness education as a prerequisite for obtaining a license to operate a motor vehicle. The purpose of the component is to educate prospective licensees on the potential dangers to pedestrians, bicyclists, and scooter operators created by motor vehicles. The purpose is also to educate electric scooter operators on their responsibilities to adhere to traffic laws.

(ii) The curriculum shall include, but shall not be limited to, an overview of traffic laws governing electric scooters, the safe operation of electric scooters, an overview of traffic laws governing motor vehicle operators' duty to exercise due care with respect to pedestrians and bicyclists, including but not limited to understanding bicyclists' and pedestrians' needs and reduced visibility, respecting bicyclists' and pedestrians' rights of way, safe operation near bicyclists and pedestrians, including children and blind, deaf, elderly and disabled pedestrians, bicycle lanes as defined in section one hundred two-a of this chapter, safely overtaking a bicycle, the dangers of distracted driving, driving at appropriate reduced speeds when special hazards exist with respect to pedestrians or other weather or highway conditions, safely turning, stopping, standing, and parking, motor vehicle operators' obligations to comply with article twenty-two of this chapter, and traffic control devices and markings related to electric scooter operators and pedestrians.

(iii) In developing such curriculum, the commissioner shall consult with the commissioner of transportation, the superintendent of the state police, the commissioners of transportation and police of the city of New York, medical professionals and pedestrian safety advocates.

(d) The commissioner shall make available for distribution upon registration at each location where the pre-licensing course will be given, instructional handbooks outlining the content of the entire curriculum of the pre-licensing course including the information required to be included in the course pursuant to paragraphs (c), (c-1), (c-2), (c-3), (c-4) [~~and~~], (c-5) **and (c-6)** of this subdivision. The commissioner shall also provide for the additional training of the instructors necessary for the competent instruction of the alcohol and drug education, "Road Rage" awareness, "Work Zone Safety" awareness, "Motorcycle Safety" awareness, **"Electric Scooter Safety" awareness,** "School Bus Safety" awareness and "Pedestrian and Bicyclist Safety" awareness subject matters of the pre-licensing course.

§ 5. The vehicle and traffic law is amended by adding a new section 1291 to read as follows:

§ 1291. 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.

§ 6. Subsection (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, an 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 ninety-one 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, an 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, an 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**, electric scooter** or all terrain vehicle, another motorcycle**, an electric scooter** or all terrain vehicle, or any motor vehicle, for loss arising out of the use or operation of the motorcycle**, an 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.

§ 7. The vehicle and traffic law is amended by adding a new section 1292 to read as follows:

§ 1292. Purchase requirements. 1. No person shall purchase any electric scooter, through an online or in-person transaction, unless such person holds a valid license to operate an electric scooter pursuant to section three hundred ninety-nine-bb of this chapter, and, in a city having a population of one million or more, has obtained and maintains valid insurance coverage pursuant to section twelve hundred ninety-one of this article.

2. No dealer shall sell or offer for retail sale any electric scooter, through an online or in-person transaction, until such dealer receives proof that the purchaser of the electric scooter holds a valid license to operate an electric scooter pursuant to section three hundred ninety-nine-bb of this chapter, and, in a city having a population of one million or more, has obtained and maintains valid insurance coverage pursuant to section twelve hundred ninety-one of this article.

3. A person who violates the provisions of subdivision one of this section shall be subject to a fine of up to five hundred dollars per violation. A dealer who violates the provisions of subdivision two of this section shall be subject to a fine of up to one thousand dollars per violation.

§ 8. This act shall take effect on the one hundred eightieth 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 on or before such date.