

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.