

STATE OF NEW YORK

2530

2025-2026 Regular Sessions

IN SENATE

January 21, 2025

Introduced by Sen. FELDER -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development

AN ACT to amend the vehicle and traffic law, in relation to prohibiting the operation of a bicycle while under the influence of alcohol or drugs

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

1 Section 1. Section 1242-a of the vehicle and traffic law, as added by
2 section 9 of part XX of chapter 58 of the laws of 2020, is amended to
3 read as follows:

4 § 1242-a. Operation of a bicycle or bicycle with electric assist while
5 under the influence of alcohol or drugs. 1. Offenses; criminal penal-
6 ties. (a) Operating a bicycle or bicycle with electric assist while
7 ability impaired. No person shall operate a bicycle or bicycle with
8 electric assist while the person's ability to operate such bicycle or
9 bicycle with electric assist is impaired by the consumption of alcohol.

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

14 (ii) A person who operates a bicycle or bicycle with electric assist
15 in violation of this paragraph after having been convicted of a
16 violation of any paragraph of this subdivision within the preceding five
17 years shall be punished by a fine of not more than seven hundred fifty
18 dollars, or by imprisonment of not more than thirty days in a penitenti-
19 ary or county jail or by both such fine and imprisonment.

20 (iii) A person who operates a bicycle or bicycle with electric assist
21 in violation of this paragraph after being convicted two or more times
22 of a violation of any paragraph of this subdivision within the preceding
23 ten years shall be guilty of a misdemeanor, and shall be punished by a

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

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

4 (b) Operating a bicycle or bicycle with electric assist while intoxi-
5 cated; per se. No person shall operate a bicycle or bicycle with elec-
6 tric assist while such person has .08 of one per centum or more by
7 weight of alcohol in the person's blood as shown by chemical analysis of
8 such person's blood, breath, urine or saliva, made pursuant to the
9 provisions of subdivision five of this section.

10 (c) Operating a bicycle or bicycle with electric assist while intoxi-
11 cated. No person shall operate a bicycle or bicycle with electric assist
12 while in an intoxicated condition.

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

18 (e) Operating a bicycle or bicycle with electric assist while ability
19 impaired by the combined influence of drugs or of alcohol and any drug
20 or drugs. No person shall operate a bicycle or bicycle with electric
21 assist while the person's ability to operate such bicycle or bicycle
22 with electric assist is impaired by the combined influence of drugs or
23 of alcohol and any drug or drugs.

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

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

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

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

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

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

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

23 (b) Field testing. Every person operating a bicycle or bicycle with
24 electric assist which has been involved in an accident shall, at the
25 request of a police officer, submit to a breath test to be administered
26 by the police officer. If such test indicates that such operator has
27 consumed alcohol, the police officer may request such operator to submit
28 to a chemical test in the manner set forth in subdivision five of this
29 section.

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

46 6. Testing procedures. (a) Persons authorized to withdraw blood; immu-
47 nity; testimony. (i) At the request of a police officer, the following
48 persons may withdraw blood for the purpose of determining the alcoholic
49 or drug content therein: (A) a physician, a registered professional
50 nurse, a registered physician assistant, a certified nurse practitioner,
51 or an advanced emergency medical technician as certified by the depart-
52 ment of health; or (B) under the supervision and at the direction of a
53 physician, registered physician assistant or certified nurse practition-
54 er acting within [~~his or her~~] their lawful scope of practice, or upon
55 the express consent of the person eighteen years of age or older from
56 whom such blood is to be withdrawn: a clinical laboratory technician or

1 clinical laboratory technologist licensed pursuant to article one
2 hundred sixty-five of the education law; a phlebotomist; or a medical
3 laboratory technician or medical technologist employed by a clinical
4 laboratory approved under title five of article five of the public
5 health law. This limitation shall not apply to the taking of a urine,
6 saliva or breath specimen.

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

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

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

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

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

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

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

55 7. Chemical test evidence. (a) Admissibility. Upon the trial of any
56 such action or proceeding arising out of actions alleged to have been

1 committed by any person arrested for a violation of any paragraph of
2 subdivision one of this section, the court shall admit evidence of the
3 amount of alcohol or drugs in the defendant's blood as shown by a test
4 administered pursuant to the provisions of subdivision five of this
5 section.

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

9 (i) evidence that there was .05 of one per centum or less by weight of
10 alcohol in such person's blood shall be prima facie evidence that the
11 ability of such person to operate a bicycle or bicycle with electric
12 assist was not impaired by the consumption of alcohol, and that such
13 person was not in an intoxicated condition;

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

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

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

37 9. Enforcement upon crash. Notwithstanding any provision of this
38 section, no part of this section may be enforced unless in conjunction
39 with a crash involving an operator of a bicycle or bicycle with electric
40 assist. For the purposes of this subdivision, "crash" shall mean
41 colliding with a vehicle, person, building or other object.

42 § 2. This act shall take effect immediately.