

STATE OF NEW YORK

4528--A

2009-2010 Regular Sessions

IN SENATE

April 24, 2009

Introduced by Sens. KRUEGER, SQUADRON -- read twice and ordered printed, and when printed to be committed to the Committee on Cities -- recommitted to the Committee on Cities in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the administrative code of the city of New York, in relation to the use of bicycles for commercial purposes

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

1 Section 1. Section 10-157 of the administrative code of the city of
2 New York, subdivisions e and f as added and subdivisions g and h as
3 amended by local law number 9 of the city of New York for the year 2007,
4 is amended to read as follows:

5 § 10-157 Bicycles used for commercial purposes. a. Every person, firm,
6 partnership, joint venture, association or corporation which engages in
7 the course of its business, either on behalf of itself or others, in
8 delivering packages, parcels, papers or articles of any type by bicycle
9 shall provide identification of the business by requiring every bicycle
10 or bicycle operator to be identified by:

11 (1) affixing to the rear of each bicycle, bicycle seat or both sides
12 of the delivery basket, a metal, plastic or other sign of a type
13 approved by the police commissioner, with the name of the business and a
14 three digit identification number which identifies the bicycle operator
15 in lettering and numerals so as to be plainly readable at a distance of
16 not less than ten feet and maintaining same in good condition thereon;
17 and

18 (2) by requiring each bicycle operator to wear a jacket, vest, or
19 other wearing apparel on the upper part of the cyclist's body while
20 making deliveries, or otherwise riding a bicycle on behalf of the busi-
21 ness, the back of which shall indicate the business name and the bicycle

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

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1 operator's individual identification number in lettering and numerals so
2 as to be plainly readable at a distance of not less than ten feet.

3 b. Every person, firm, partnership, joint venture, association or
4 corporation or similar entity engaged in providing or arranging for the
5 provision of a service as authorized herein must issue to every bicycle
6 operator a numbered identification card which contains the name, resi-
7 dence address and photo of the bicycle operator and the name, address
8 and telephone number of the company for whom the bicycle operator is
9 ~~[employed]~~ affiliated. Such identification card must be carried by the
10 bicycle operator while the cyclist is making deliveries, or otherwise
11 riding a bicycle on behalf of the business, and must be produced upon
12 the demand of a police officer or any other law enforcement officer.

13 c. Every person, firm, partnership, joint venture, association ~~[or]~~,
14 corporation or similar entity engaged in providing or arranging for the
15 provision of a service as authorized herein shall maintain in a log book
16 to be kept for such purpose, the name and place of residence address of
17 every ~~[employee operating a]~~ bicycle operator, the date of employment or
18 association and discharge of each person in said service, and every
19 messenger or delivery person's identification number. The owner of any
20 business engaged in providing a service as authorized in this section
21 shall be responsible for maintaining in the log book a daily trip record
22 in which all entries shall be made legibly in ink and each entry shall
23 be dated and include the bicycle identification number, the operator's
24 name and the name and place of origin and destination for each trip. No
25 entry shall be rewritten either in whole or in part except in such
26 manner as may be provided by regulation of the commissioner; any such
27 unauthorized rewriting shall give rise to a rebuttable presumption of an
28 act of fraud, deceit or misrepresentation. Such log book shall be made
29 available for inspection during regular and usual business hours upon
30 request of an agent of the police commissioner or any police officer or
31 any other person authorized by law.

32 d. The owner of any business engaged in providing or arranging for the
33 provision of a service as authorized in this section shall file an annu-
34 al report in such form as shall be designated by the police commissioner
35 by rule or regulations. Said report shall include, inter alia, the
36 number of bicycles it owns and the number and identity of any ~~[employees~~
37 ~~it may retain]~~ bicycle operators employed by or otherwise affiliated
38 with such business. Any business engaged in providing or arranging a
39 service as authorized in this section shall be responsible for the
40 compliance with the provisions of this section of any ~~[employees it~~
41 ~~shall retain]~~ bicycle operators employed by or otherwise affiliated with
42 such business. Nothing contained in this section shall be construed as
43 applying to persons under the age of sixteen who use a bicycle to deliv-
44 er daily newspapers or circulars.

45 e. (1) The owner of any business engaged in providing a service as
46 authorized in this section shall provide, at its own expense, protective
47 headgear suitable for each bicycle operator. Such headgear shall:

48 (i) meet the standards set forth by the consumer product safety
49 commission in title 16, part 1203 of the code of federal regulations;

50 (ii) be readily available at each employment site for use by each
51 bicycle operator; and

52 (iii) be replaced if such headgear is no longer in good condition.
53 Headgear is no longer in good condition if it is missing any of its
54 component parts or is otherwise damaged so as to impair its functionali-
55 ty.

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1 (2) Each bicycle operator shall wear protective headgear that meets
2 the requirements of paragraph [±] one of this subdivision while making
3 deliveries or otherwise operating a bicycle on behalf of such business.
4 The term "wear such protective headgear" means having the headgear
5 fastened securely upon the head with the headgear straps.

6 f. The owner of any business engaged in providing a service as author-
7 ized in this section, notwithstanding that a bicycle may be provided by
8 an employee thereof, shall provide at its own expense and ensure that
9 each bicycle is equipped with a lamp; a bell or other device capable of
10 giving an audible signal; brakes; reflective tires or, alternately, a
11 reflex reflector mounted on the spokes of each wheel; as well as other
12 reflective devices or material, in accordance with section [1236] one
13 thousand two hundred thirty-six of the vehicle and traffic law.

14 g. ~~[Except as otherwise provided in subdivision h of this section,~~
15 ~~the] The person, firm, partnership, joint venture, association, corpo-~~
16 ~~ration or other similar entity engaged in providing or arranging for the~~
17 ~~provision of a service as authorized in this section shall be liable for~~
18 ~~any violation of any of the provisions of [this section,] this code~~
19 ~~regulating the operation of bicycles and commercial bicycles or [of] any~~
20 ~~[of the] rules or regulations that may be promulgated pursuant~~
21 ~~hereto[7]. Such violation shall be [a violation] triable [by a judge of~~
22 ~~the criminal court] in a proceeding before the environmental control~~
23 ~~board of the city of New York and upon conviction [thereof] of a person,~~
24 ~~firm partnership, joint venture, association, or corporation shall be~~
25 ~~punishable by a fine of not less than one hundred dollars nor more than~~
26 ~~two hundred [and] fifty dollars [or imprisonment for not more than~~
27 ~~fifteen days or both such fine and imprisonment]. In addition to or as~~
28 ~~an alternative to the penalties provided for a violation of any of the~~
29 ~~provisions of this section, or of any of the rules or regulations~~
30 ~~promulgated pursuant hereto, any person who shall violate any such~~
31 ~~provisions shall be liable for a civil penalty of not less than one~~
32 ~~hundred dollars nor more than two hundred and fifty dollars for each~~
33 ~~violation. Such civil penalty may be recovered in an action or proceed-~~
34 ~~ing in any court of competent jurisdiction.~~

35 h. ~~[Any person who makes deliveries or otherwise operates a bicycle on~~
36 ~~behalf of a business without carrying the identification required by~~
37 ~~subdivision b of this section or who fails to produce such identifica-~~
38 ~~tion upon demand as required by such subdivision, or who fails to wear~~
39 ~~protective headgear required by subdivision e of this section, shall be~~
40 ~~guilty of a traffic infraction and upon conviction thereof shall be~~
41 ~~liable for a fine of not less than twenty-five dollars nor more than~~
42 ~~fifty dollars. It shall be an affirmative defense to such traffic~~
43 ~~infraction that the business did not provide the protective headgear~~
44 ~~required by subdivision e of this section. Such traffic infraction may~~
45 ~~be adjudicated by such an administrative tribunal as is authorized under~~
46 ~~article two-A of the vehicle and traffic law.] In any prosecution of a~~
47 ~~person, firm, partnership, joint venture, association or corporation for~~
48 ~~a violation of this section, there shall be a rebuttable presumption~~
49 ~~that such person, firm, partnership, joint venture, association or~~
50 ~~corporation utilizing the services of the bicycle operator had knowledge~~
51 ~~that the bicycle operator was in violation of any subdivision of this~~
52 ~~section.~~

53 § 2. This act shall take effect on the first of November next succeed-
54 ing the date on which it shall have become a law.

**NEW YORK STATE SENATE
INTRODUCER'S MEMORANDUM IN SUPPORT
submitted in accordance with Senate Rule VI. Sec 1**

BILL NUMBER: S4528A

SPONSOR: KRUEGER

TITLE OF BILL: An act to amend the administrative code of the city of New York, in relation to the use of bicycles for commercial purposes

PURPOSE: Provides that a commercial bicycle operator and the business affiliated with such operator utilizing or arranging for the delivery of their products shall be liable for such bicyclist's violation(s) of section 10-157 of the Administrative Code.

SUMMARY OF PROVISIONS: This bill amends section 10-157 of the Administrative Code to facilitate enforcement by authorities for commercial bicyclists and businesses knowingly in violation of this section.

Section 2, subdivision b is expanded to include all commercial cyclists who provide a delivery service for a business, not limiting it to those who are actually employed by the establishment, subject to the provisions of this section.

Section 2, subdivision g moves the proceedings for any violation to this section from the criminal court to the environmental control board. It also allows individuals who break the traffic code to be held liable for a civil penalty.

Section 2, subdivision f creates a rebuttable presumption that the business utilizing or arranging for the services of the commercial bicycle operator had knowledge that the bicyclist was in violation of this section by failing to provide proper identification to the commercial bicycle operator.

EXISTING LAW: The New York City Administrative Code prohibits the operation of bicycles on sidewalks due to the danger bicycles pose to pedestrians in the event of a collision.

Section 10-157 of the Administrative Code applies to bicycles used for commercial purposes. This section was created to enable the authorities to enforce the prohibition of delivery bicycles traveling recklessly on sidewalks by assigning liability to the business providing for, or arranging for delivery service. This section requires the business provide identification for the cyclist, with the use of an identification card. Additionally, an obvious visual means of identification with the name of the establishment or a registered number identified solely with a particular business address must be supplied to the commercial cyclist.

JUSTIFICATION: Sidewalks were created for use by pedestrians and not for speeding delivery bicycles attempting to shave minutes from their

delivery time at a heightened risk for community residents on foot. This problem has been exacerbated by the difficulty experienced in enforcing the current statutory provisions which prohibit this activity, and assigning liability to the business utilizing or arranging for the commercial bicycle delivery operator to complete delivery.

Section 10-157 does require identification to be provided by the business utilizing the services of delivery cyclists for both the bicycle and rider, but until now has not been readily enforced. First, any violation of this section will be brought before the environmental control board for ease of prosecution as opposed to the criminal court currently the court of jurisdiction. Secondly, this proposal will create a rebuttable presumption that the business utilizing the services of the cyclist was fully aware of the lack of identification associating the cyclist with the business. This rebuttable presumption will make them subject to a fine from \$100 to \$250.

By making the business liable for the actions of the cyclists used for delivery of their product, it will promote an interest for the business to only associate with commercial cyclists who adhere to the requirements currently in place in the Administrative Code. By clarifying who is responsible for violations and enabling pedestrians to identify a reckless cyclist and associate the cyclist with the business that they are affiliated with, will facilitate enforcement by the authorities, thereby protecting the pedestrians. The bill also allows an additional penalty to be imposed on the rider in addition to the penalty on the business.

FISCAL IMPLICATIONS: Some increased revenue for the City through the imposition of fines to those in violation.

EFFECTIVE DATE: Shall take effect on the first of November next succeeding the date on which it shall become law.

STATE OF NEW YORK

407--A

2009-2010 Regular Sessions

IN ASSEMBLY(Prefiled)

January 7, 2009

Introduced by M. of A. KAVANAGH -- read once and referred to the Committee on Cities -- recommitted to the Committee on Cities in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the administrative code of the city of New York, in relation to the use of bicycles for commercial purposes

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

- 1 Section 1. Section 10-157 of the administrative code of the city of
2 New York, subdivisions e and f as added and subdivisions g and h as
3 amended by local law number 9 of the city of New York for the year 2007,
4 is amended to read as follows:
5 § 10-157 Bicycles used for commercial purposes. a. Every person, firm,
6 partnership, joint venture, association or corporation which engages in
7 the course of its business, either on behalf of itself or others, in
8 delivering packages, parcels, papers or articles of any type by bicycle
9 shall provide identification of the business by requiring every bicycle
10 or bicycle operator to be identified by:
11 (1) affixing to the rear of each bicycle, bicycle seat or both sides
12 of the delivery basket, a metal, plastic or other sign of a type
13 approved by the police commissioner, with the name of the business and a
14 three digit identification number which identifies the bicycle operator
15 in lettering and numerals so as to be plainly readable at a distance of
16 not less than ten feet and maintaining same in good condition thereon;
17 and
18 (2) by requiring each bicycle operator to wear a jacket, vest, or
19 other wearing apparel on the upper part of the cyclist's body while
20 making deliveries, or otherwise riding a bicycle on behalf of the busi-
21 ness, the back of which shall indicate the business name and the bicycle

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

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1 operator's individual identification number in lettering and numerals so
2 as to be plainly readable at a distance of not less than ten feet.

3 b. Every person, firm, partnership, joint venture, association or
4 corporation or similar entity engaged in providing or arranging for the
5 provision of a service as authorized herein must issue to every bicycle
6 operator a numbered identification card which contains the name, resi-
7 dence address and photo of the bicycle operator and the name, address
8 and telephone number of the company for whom the bicycle operator is
9 [~~employed~~] affiliated. Such identification card must be carried by the
10 bicycle operator while the cyclist is making deliveries, or otherwise
11 riding a bicycle on behalf of the business, and must be produced upon
12 the demand of a police officer or any other law enforcement officer.

13 c. Every person, firm, partnership, joint venture, association [~~or~~],
14 corporation or similar entity engaged in providing or arranging for the
15 provision of a service as authorized herein shall maintain in a log book
16 to be kept for such purpose, the name and place of residence address of
17 every [~~employee operating a~~] bicycle operator, the date of employment or
18 association and discharge of each person in said service, and every
19 messenger or delivery person's identification number. The owner of any
20 business engaged in providing a service as authorized in this section
21 shall be responsible for maintaining in the log book a daily trip record
22 in which all entries shall be made legibly in ink and each entry shall
23 be dated and include the bicycle identification number, the operator's
24 name and the name and place of origin and destination for each trip. No
25 entry shall be rewritten either in whole or in part except in such
26 manner as may be provided by regulation of the commissioner; any such
27 unauthorized rewriting shall give rise to a rebuttable presumption of an
28 act of fraud, deceit or misrepresentation. Such log book shall be made
29 available for inspection during regular and usual business hours upon
30 request of an agent of the police commissioner or any police officer or
31 any other person authorized by law.

32 d. The owner of any business engaged in providing or arranging for the
33 provision of a service as authorized in this section shall file an annu-
34 al report in such form as shall be designated by the police commissioner
35 by rule or regulations. Said report shall include, inter alia, the
36 number of bicycles it owns and the number and identity of any [~~employees~~
37 ~~it may retain~~] bicycle operators employed by or otherwise affiliated
38 with such business. Any business engaged in providing or arranging a
39 service as authorized in this section shall be responsible for the
40 compliance with the provisions of this section of any [~~employees it~~
41 ~~shall retain~~] bicycle operators employed by or otherwise affiliated with
42 such business. Nothing contained in this section shall be construed as
43 applying to persons under the age of sixteen who use a bicycle to deliv-
44 er daily newspapers or circulars.

45 e. (1) The owner of any business engaged in providing a service as
46 authorized in this section shall provide, at its own expense, protective
47 headgear suitable for each bicycle operator. Such headgear shall:

48 (i) meet the standards set forth by the consumer product safety
49 commission in title 16, part 1203 of the code of federal regulations;

50 (ii) be readily available at each employment site for use by each
51 bicycle operator; and

52 (iii) be replaced if such headgear is no longer in good condition.
53 Headgear is no longer in good condition if it is missing any of its
54 component parts or is otherwise damaged so as to impair its functionali-
55 ty.

A. 407--A

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1 (2) Each bicycle operator shall wear protective headgear that meets
2 the requirements of paragraph [±] one of this subdivision while making
3 deliveries or otherwise operating a bicycle on behalf of such business.
4 The term "wear such protective headgear" means having the headgear
5 fastened securely upon the head with the headgear straps.

6 f. The owner of any business engaged in providing a service as author-
7 ized in this section, notwithstanding that a bicycle may be provided by
8 an employee thereof, shall provide at its own expense and ensure that
9 each bicycle is equipped with a lamp; a bell or other device capable of
10 giving an audible signal; brakes; reflective tires or, alternately, a
11 reflex reflector mounted on the spokes of each wheel; as well as other
12 reflective devices or material, in accordance with section [1236] one
13 thousand two hundred thirty-six of the vehicle and traffic law.

14 g. ~~[Except as otherwise provided in subdivision h of this section,~~
15 ~~the] The person, firm, partnership, joint venture, association, corpo-~~
16 ~~ration or other similar entity engaged in providing or arranging for the~~
17 ~~provision of a service as authorized in this section shall be liable for~~
18 ~~any violation of any of the provisions of [this section,] this code~~
19 ~~regulating the operation of bicycles and commercial bicycles or [of] any~~
20 ~~[of the] rules or regulations that may be promulgated pursuant~~
21 ~~hereto[7]. Such violation shall be [a violation] triable [by a judge of~~
22 ~~the criminal court] in a proceeding before the environmental control~~
23 ~~board of the city of New York and upon conviction [thereof] of a person,~~
24 ~~firm partnership, joint venture, association, or corporation shall be~~
25 ~~punishable by a fine of not less than one hundred dollars nor more than~~
26 ~~two hundred [and] fifty dollars [or imprisonment for not more than~~
27 ~~fifteen days or both such fine and imprisonment]. In addition to or as~~
28 ~~an alternative to the penalties provided for a violation of any of the~~
29 ~~provisions of this section, or of any of the rules or regulations~~
30 ~~promulgated pursuant hereto, any person who shall violate any such~~
31 ~~provisions shall be liable for a civil penalty of not less than one~~
32 ~~hundred dollars nor more than two hundred and fifty dollars for each~~
33 ~~violation. Such civil penalty may be recovered in an action or proceed-~~
34 ~~ing in any court of competent jurisdiction.~~

35 h. ~~[Any person who makes deliveries or otherwise operates a bicycle on~~
36 ~~behalf of a business without carrying the identification required by~~
37 ~~subdivision b of this section or who fails to produce such identifica-~~
38 ~~tion upon demand as required by such subdivision, or who fails to wear~~
39 ~~protective headgear required by subdivision e of this section, shall be~~
40 ~~guilty of a traffic infraction and upon conviction thereof shall be~~
41 ~~liable for a fine of not less than twenty-five dollars nor more than~~
42 ~~fifty dollars. It shall be an affirmative defense to such traffic~~
43 ~~infraction that the business did not provide the protective headgear~~
44 ~~required by subdivision e of this section. Such traffic infraction may~~
45 ~~be adjudicated by such an administrative tribunal as is authorized under~~
46 ~~article two-A of the vehicle and traffic law.] In any prosecution of a~~
47 ~~person, firm, partnership, joint venture, association or corporation for~~
48 ~~a violation of this section, there shall be a rebuttable presumption~~
49 ~~that such person, firm, partnership, joint venture, association or~~
50 ~~corporation utilizing the services of the bicycle operator had knowledge~~
51 ~~that the bicycle operator was in violation of any subdivision of this~~
52 ~~section.~~

53 § 2. This act shall take effect on the first of November next succeed-
54 ing the date on which it shall have become a law.

**NEW YORK STATE ASSEMBLY
MEMORANDUM IN SUPPORT OF LEGISLATION
submitted in accordance with Assembly Rule III, Sec 1(f)**

BILL NUMBER: A407A

SPONSOR: Kavanagh

TITLE OF BILL: An act to amend the administrative code of the city of New York, in relation to the use of bicycles for commercial purposes

PURPOSE: Provides that a commercial bicycle operator and the business affiliated with such operator that is utilizing or arranging for the delivery of its products shall be liable for such bicyclist's violation(s) of section 10-157 of the Administrative Code.

SUMMARY OF PROVISIONS: This bill amends section 10-157 of the Administrative Code to facilitate enforcement by authorities for commercial bicyclists and businesses knowingly in violation of this section.

Section 2, subdivision b is expanded to include all commercial cyclists who provide a delivery service for a business, not limiting it to those who are actually employed by the establishment, subject to the provisions of this section.

Section 2, subdivision e moves the proceedings for any violation to this section from the criminal court to the environmental control board.

Section 2, subdivision f creates a rebuttable presumption that the business utilizing or arranging for the services of the commercial bicycle operator had knowledge that the bicyclist was in violation of this section by failing to provide proper identification to the commercial bicycle operator.

EXISTING LAW: The New York City Administrative Code prohibits the operation of bicycles on sidewalks due to the danger bicycles pose to pedestrians in the event of a collision. Section 10-157 of the Administrative Code applies to bicycles used for commercial purposes. This section was created to enable the authorities to enforce the prohibition of delivery bicycles traveling recklessly on sidewalks by assigning liability to the business providing for, or arranging for, delivery service. This section requires the business provide identification for the cyclist, with the use of an identification card. Additionally, an obvious visual means of identification with the name of the establishment or a registered number identified solely with a particular business address must be supplied to the commercial cyclist.

JUSTIFICATION: Sidewalks were created for use by pedestrians and not for speeding delivery bicycles attempting to shave minutes from their delivery time at a heightened risk for community residents on foot. This problem has been exacerbated by the difficulty experienced in enforcing the current statutory provisions which prohibit this activity, and assigning liability to the business utilizing or arranging for the

commercial bicycle delivery operator to complete delivery.

Section 10-157 does require identification be provided by the business utilizing the services of delivery cyclists for both the bicycle and rider, but until now it has not been readily enforced. This bill would remedy this in two ways. First, any violation of this section will be brought before the environmental control board for ease of prosecution as opposed to the criminal court, which is currently the court of jurisdiction. Second, this proposal will create a rebuttable presumption that the business utilizing the services of the cyclist was fully aware of the lack of identification associating the cyclist with the business. This rebuttable presumption will make the business subject to a fine of \$100 to \$250.

By making the businesses liable for the actions of the cyclists used for delivery of their products, this bill will encourage businesses to associate only with commercial cyclists who adhere to the requirements currently in place in the Administrative Code. By clarifying who is responsible for violations and enabling pedestrians to identify reckless cyclists and associate the cyclists with the businesses with which they are affiliated, this bill will facilitate enforcement by the authorities, thereby protecting pedestrians. The bill also allows an additional penalty to be imposed on the rider in addition to the penalty imposed on the business.

LEGISLATIVE HISTORY:

2008: A8294 (Kavanagh) - Cities

2007: A8294 (Kavanagh) - Cities

FISCAL IMPACT ON THE STATE: Some increased revenue for the City through the imposition of fines to those in violation.

EFFECTIVE DATE: This act shall take effect on the first of November next succeeding the date on which it shall have become a law.
