



Legislation Text

File #: Int 0910-2012, Version: A

Int. No. 910-A

By Council Members Vacca, Brewer, Garodnick, Lappin, Chin, Koo, Koslowitz, Mendez, Wills, Rodriguez, Van Bramer, Koppell, Dickens, Gennaro, Gentile, Jackson and Williams

A Local Law to amend the administrative code of the city of New York, in relation to the use of bicycles for commercial purposes.

Be it enacted by the Council as follows:

Section 1. Section 10-157 of the administrative code of the city of New York is amended to read as follows:

§ 10-157 Bicycles used for commercial purposes. a. [Every] For purposes of this section, the following terms shall have the following meanings:

(1) “bicycle” shall have the same meaning as in section 19-176 of this code, and shall also mean any wheeled device propelled exclusively by human power as well as any motor-assisted device that is not capable of being registered by the New York state department of motor vehicles;

(2) “business using a bicycle for commercial purposes” shall mean a person, firm, partnership, joint venture, association [or], corporation, or other entity which engages in the course of its business, either on behalf of itself or others, in delivering packages, parcels, papers or articles of any type by bicycle. Nothing contained in this section shall be construed as applying to persons under the age of sixteen who use a bicycle only to deliver daily newspapers or circulars.

b. A business using a bicycle for commercial purposes shall provide identification of [the] such business by requiring every bicycle [or bicycle operator] to be identified by[:

(1) affixing to the rear of each bicycle, bicycle seat or both sides of the delivery basket, a metal

or plastic [or other] sign [of a type approved by the police commissioner] measuring no less than three inches by five inches, with the name of the business and [a three digit identification number which identifies the bicycle operator in lettering and numerals] an identification number unique to that particular bicycle in lettering and numerals no less than one inch in height so as to be plainly readable at a distance of not less than ten feet and maintaining same in good condition thereon. A sign is no longer in good condition if it is missing any of its component parts or is otherwise damaged so as to impair its functionality.]; and

(2) by requiring each bicycle operator to wear a jacket, vest, or other wearing apparel on the upper part of the cyclist's body while making deliveries, or otherwise riding a bicycle on behalf of the business, the back of which shall indicate the business name and the bicycle operator's individual identification number in lettering and numerals so as to be plainly readable at a distance of not less than ten feet.

b] c. Every [person, firm, partnership, joint venture, association or corporation engaged in providing a service as authorized herein] business using a bicycle for commercial purposes must assign to every bicycle operator employed by such business a three digit identification number. Such business must issue to every bicycle operator [a numbered] an identification card which contains the name, [residence address] three digit identification number and photo of the bicycle operator and the name, address and telephone number of the [company for whom] business by which the bicycle operator is employed. Such business shall ensure that such identification card [must be] is carried by the bicycle operator while [the cyclist]such bicycle operator is making deliveries, or otherwise riding a bicycle on behalf of the business, and [must be produced] such bicycle operator shall carry such identification card while operating a bicycle on behalf of such business. Such bicycle operator shall be required to produce such identification upon the demand of [a police officer or any other law enforcement officer] an authorized employee of the police department or department of transportation or any other person authorized by law.

[c] d. Every [person, firm, partnership, joint venture, association or corporation engaged in providing a service as authorized herein] business using a bicycle for commercial purposes shall maintain [in a

log book to be kept for such purpose,] a roster of bicycle operators employed by such business. Such roster shall include the name and place of residence address of every employee operating a bicycle on behalf of such business, the date of employment and discharge of each such [person in said service] employee, [and] every [messenger or delivery] such [person's] employee's three digit identification number, and whether such employee has completed the bicycle safety course required by paragraph 3 of subdivision e of this section. The owner of any business [engaged in providing a service as authorized in this section] using a bicycle for commercial purposes shall be responsible for maintaining [in the log book a daily trip record in which all entries shall be made legibly in ink and each entry shall be dated and include the bicycle identification number, the operator's name and the name and place of origin and destination for each trip. No entry shall be rewritten either in whole or in part except in such manner as may be provided by regulation of the commissioner; any such unauthorized rewriting shall give rise to a rebuttable presumption of an act of fraud, deceit or misrepresentation] such roster. Such [log book] roster shall be made available for inspection during regular and usual business hours or any other such time that such entity is open for business upon request of an [agent] authorized employee of the police [commissioner] department or department of transportation or any [police officer or any] other person authorized by law.

[d. The owner of any business engaged in providing a service as authorized in this section shall file an annual report in such form as shall be designated by the police commissioner by rule or regulations. Said report shall include, inter alia, the number of bicycles it owns and the number and identity of any employees it may retain. Any business engaged in providing a service as authorized in this section shall be responsible for the compliance with the provisions of this section of any employees it shall retain. Nothing contained in this section shall be construed as applying to persons under the age of sixteen who use a bicycle to deliver daily newspapers or circulars.]

e. (1) The owner of any business [engaged in providing a service as authorized in this section] using a bicycle for commercial purposes shall provide, at its own expense, protective headgear suitable for each

bicycle operator. Such headgear shall:

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

(ii) be readily available at each [employment] site of the business using a bicycle for commercial purposes for use by each bicycle operator; and

(iii) be replaced if such headgear is no longer in good condition. Headgear is no longer in good condition if it is missing any of its component parts or is otherwise damaged so as to impair its functionality.

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

f. The owner of any business [engaged in providing a service as authorized in this section] using a bicycle for commercial purposes, notwithstanding that a bicycle may be provided by an employee thereof, shall provide at its own expense and ensure that each bicycle is equipped with a lamp; a bell or other device capable of giving an audible signal from a distance of at least one hundred feet, provided however that a siren or whistle shall not be used; brakes; reflective tires or, alternately, a reflex reflector mounted on the spokes of each wheel; as well as other [reflective] devices or material[,] in accordance with section 1236 of the vehicle and traffic law.

g. Any business using a bicycle for commercial purposes shall be responsible for the compliance with the provisions of this section of any employees it shall retain. [Except as otherwise provided in subdivision h of this section, the violation]Violation of any of the provisions of this section by any such business, or of any of the rules or regulations that may be promulgated pursuant hereto, shall be a violation triable by a judge of the criminal court of the city of New York and upon conviction thereof shall be punishable

by a fine of not less than one hundred dollars nor more than two hundred [and] fifty dollars or imprisonment for not more than fifteen days or both such fine and imprisonment. In addition, any business using a bicycle for commercial purposes that violates any of the provisions of this section or any of the rules promulgated pursuant hereto shall be subject to a civil penalty of one hundred dollars. Any such business that violates a provision of this section or rule promulgated pursuant hereto more than thirty days after such business has already violated the same provision or rule shall be subject to an additional civil penalty of two hundred fifty dollars. Such civil penalties may be in addition to any criminal penalty imposed, and shall be recoverable against such business in an action or proceeding in any court or tribunal of competent jurisdiction or the environmental control board.

h. Any person who makes deliveries or otherwise operates a bicycle on behalf of a business using a bicycle for commercial purposes without carrying the identification sign required by subdivision b of this section or without carrying the identification card required by subdivision c of this section or who fails to produce such identification sign or card upon demand [as required by] pursuant to such [subdivision] subdivisions, or who fails to wear protective headgear required by subdivision e of this section or the retro-reflective apparel required by subdivision i of this section, shall be guilty of a traffic infraction and upon conviction thereof shall be liable for a fine of not less than twenty-five dollars nor more than fifty dollars. It shall be an affirmative defense to such traffic infraction that [the] such business did not provide the protective headgear, the identification or the retro-reflective apparel required by [subdivision] subdivisions b, c, e or i of this section. Such traffic infraction may be adjudicated by such an administrative tribunal as is authorized under article two-A of the vehicle and traffic law.

§ 2. Subdivisions a and d of section 10-157.1 of the administrative code of the city of New York, as added by local law number 10 for the year 2007, are amended to read as follows:

a. Every [person, firm, partnership, joint venture, association or corporation subject to the provisions of] business using a bicycle for commercial purposes, as defined in subdivision a of section 10-157

of this chapter, shall post one or more signs at each [employment] business using the bicycle for commercial purposes site summarizing:

(1) the responsibilities of bicycle operators and businesses pursuant to section 10-157 of this chapter; and

(2) the provisions of the vehicle and traffic law, administrative code of the city of New York and department of transportation traffic rules and regulations that the commissioner of transportation in his or her discretion determines are most important for the safe operation of bicycles in New York city. Not less than fifteen days prior to the effective date of this section, the department of transportation shall post on its website the provisions required to be posted under this subdivision.

d. The violation of any provision of subdivision a or b of this section, or of any of the rules or regulations that may be promulgated pursuant hereto, shall be a violation triable by a judge of the criminal court of the city of New York and upon conviction thereof shall be punishable by a fine of not less than one hundred dollars nor more than two hundred [and] fifty dollars or imprisonment for not more than fifteen days or both such fine and imprisonment. In addition, any [person] business using a bicycle for commercial purposes, as defined in subdivision a of section 10-157 of this chapter who violates any provision of subdivision a or b of this section or any of the rules or regulations promulgated pursuant hereto shall be [liable for a civil penalty of three hundred dollars] subject to a civil penalty of one hundred dollars. Any such business that violates a provision of this section or rule promulgated pursuant hereto more than thirty days after such business has already violated the same provision or rule shall be subject to an additional civil penalty of two hundred fifty dollars. Such civil penalties may be in addition to any criminal penalty imposed, and shall be recoverable against such business in an action or proceeding in any court or tribunal of competent jurisdiction or the environmental control board.

§ 3. This local law shall take effect one hundred eighty days after it shall have become law,

except that the commissioners of the department of transportation and the police department shall take all actions necessary, including the promulgation of rules, if necessary, to implement this local law on or before the date upon which it shall take effect.

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