

LOCAL LAW NO. "H" FOR 2021

A LOCAL LAW OF THE COUNTY OF ALBANY, NEW YORK RELATING TO THE SAFE USE OF ELECTRIC SCOOTERS AND BICYCLES WITH ELECTRIC ASSIST

Introduced: 8/9/21

By Messrs. Domalewicz, Feeney, Bruschi, Commisso, Ricard and Miller:

BE IT ENACTED by the Albany County Legislature as follows:

Section 1. Title

This local law shall be known as the "Albany County Electric Scooter and E-Bike Helmet Law."

Section 2. Legislative Intent

The Albany County Legislature hereby finds and determines that electric scooters and bicycles with electric assist contain motors which can rapidly increase the speed of such devices up to twenty miles an hour.

The Legislature further finds and determines that individuals operating electric scooters or riding on bicycles with electric assist are vulnerable to injury when riding at increased speeds.

The Legislature further finds and determines that, to protect the safety of operators and passengers, all individuals operating electric scooters or riding on bicycles with electric assist should be required to wear protective helmets.

Section 3. Definitions

As used in this local law, the following terms shall have the meanings indicated:

- (a) "Electric Scooter" shall have the same meaning as set forth in Section 114-E of the New York Vehicle and Traffic Law.
- (b) "Bicycle with Electric Assist" shall have the same meaning as set forth in Section 102-C of the New York Vehicle and Traffic Law.

Section 4. Helmet Requirements for Certain Electric Assisted Devices

- (a) Any individual operating an electric scooter shall wear a helmet.

- (b) Any individual operating or riding as a passenger on a bicycle with electric assist shall wear a helmet.
- (c) Any helmet worn to comply with this local law shall conform to the requirements established by the Commissioner of the New York State Department of Motor Vehicles.
- (d) For purposes of this section, wearing a helmet means having a helmet of good fit fastened securely upon the head with the helmet straps.

Section 5. Penalties

- (a) Any person who violates Section 4 of this local law shall be guilty of a violation and subject to a fine not to exceed one hundred (100) dollars.
- (b) The court shall wave any fine for which a person who violates the provisions of Section 4 of this local law would be liable if such person supplies the court with proof that between the date of violation and the appearance date for such violation such person purchased or rented a helmet which meets the requirements established by the Commissioner of the New York State Department of Motor Vehicles prior to the time of the offense. Such waiver of a fine shall not apply to a second or subsequent violation of Section 4 of this local law.
- (c) The court may waive any fine for which a person who violates the provisions of Section 4 would be liable if the court finds that, due to reasons of economic hardship, such person was unable to purchase a helmet or, due to such economic hardship, such person was unable to obtain a helmet from the statewide in-line skate and bicycle helmet distribution program, as established in New York Public Health Law Section 206, or a local distribution program. Such waiver of a fine shall not apply to a second or subsequent violation of Section 4 of this local law.

Section 6. Contributory Negligence and Assumption of Risk

The failure of any person to comply with the provisions of Section 4 of this local law shall not constitute contributory negligence or assumption of risk, and shall not in any way bar, preclude or foreclose an action for personal injury or wrongful death by or on behalf of such person, nor in any way diminish or reduce the damages recoverable in any such action.

Section 7. Applicability

This law shall apply to all actions occurring on or after the effective date of this local law.

Section 8. Reverse Preemption

This local law shall be null and void on the day that federal or statewide legislation goes into effect incorporating either the same or substantially similar provisions as are contained in this law, or in the event that a pertinent state or federal administrative agency issues and promulgates regulations preempting such action by the County of Albany. The County Legislature may determine via resolution whether or not identical or substantially similar federal or statewide legislation, or pertinent preempting state or federal regulations have been enacted for the purposes of triggering the provisions of this section.

Section 9. Severability

If any clause, sentence, paragraph, section, subdivision, or any other part of this local law or its application shall be inconsistent with any federal or state statute, law, regulation or rule then the federal or state statute, law, regulation, or rule shall prevail. If any clause, sentence, paragraph, section, subdivision, or other part of this local law or its application shall be adjudged by a court of competent jurisdiction to be invalid or unconstitutional, such order or judgement shall not affect, impair, or invalidate the remainder of the local law which shall remain in full force and effect except as limited by such order or judgment.

Section 10. Effective Date

This local law shall take effect immediately following its filing with the Office of the Secretary of State.

Referred to Law and Mass Transit Committees – 8/9/21