

[First Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
ASSEMBLY, No. 2195

STATE OF NEW JERSEY

ADOPTED SEPTEMBER 16, 1996

Sponsored by Assemblymen KELLY, O'TOOLE and Bagger

1 AN ACT concerning the <sup>1</sup>operation of roller skates and skateboards on  
2 roadways and the<sup>1</sup> safety of certain persons when riding bicycles,  
3 <sup>1</sup>[or operating roller skates or skateboards,]<sup>1</sup> and supplementing  
4 chapter 4 of Title 39 of the Revised Statutes and amending  
5 P.L.1991, c.465.

6  
7 **BE IT ENACTED** by the Senate and General Assembly of the State  
8 of New Jersey:

9  
10 <sup>1</sup>[1. (New section) a. As used in this act:

11 "Director" means the Director of Consumer Affairs in the  
12 Department of Law and Public Safety.

13 "Roller skates" means a pair of devices worn on the feet with a set  
14 of wheels attached, regardless of the number or placement of those  
15 wheels, and used to glide or propel the user over the ground.

16 b. A person under 18 years of age shall not operate any roller  
17 skates or skateboard unless that person is wearing a properly fitted and  
18 fastened helmet which meets the standards of the American National  
19 Standards Institute (ANSI Z90.4 bicycle helmet standard), the Snell  
20 Memorial Foundation's 1990 Standard for Protective Headgear for  
21 Use in Bicycling, the American Society for Testing and Materials  
22 (ASTM) standard, or other such standard as appropriate.

23 c. The requirement in subsection b. of this section shall apply at  
24 all times while a person subject to the provisions of this act is  
25 operating roller skates or skateboarding on any property open to the  
26 public or used by the public for roller skating or skateboarding.]<sup>1</sup>

27 <sup>1</sup>[2. (New section) a. A person who violates the provisions of

**EXPLANATION** - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Assembly floor amendments adopted October 21, 1996.

1 section 1 of this act by failing to wear an approved helmet shall be  
2 warned of the violation by the enforcing official. The parent or legal  
3 guardian of the violator may be fined a maximum of \$25 for a first  
4 offense and a maximum of \$100 for a subsequent offense. The  
5 penalties provided under the provisions of this subsection for failing  
6 to wear an approved helmet may be waived if the parent or legal  
7 guardian of the violator presents suitable proof that an approved  
8 helmet or appropriate personal protection equipment has been  
9 purchased since the violation occurred.

10 b. All moneys collected as fines under subsection a. of this section  
11 shall be deposited in the "Bicycle and Skating Safety Fund" pursuant  
12 to section 2 of P.L.1991, c.465 (C.39:4-10.2).]<sup>1</sup>

13  
14 <sup>1</sup>[3. (New section) The failure of any person to comply with the  
15 provisions of section 1 of this act shall not constitute negligence per  
16 se, contributory negligence, or assumption of risk, and shall not in any  
17 way bar, preclude or foreclose an action for personal injury or  
18 wrongful death by or on behalf of such person.]]<sup>1</sup>

19  
20 <sup>1</sup>[4. (New section) a. It shall be unlawful to manufacture,  
21 assemble, sell, offer to sell, or distribute roller skates or skateboards  
22 unless such roller skates or skateboards contain a warning notice  
23 consistent with the requirements of this section.

24 b. The warning notice required by subsection a. of this section  
25 shall be placed in at least one of the following locations and shall be  
26 clearly visible to the consumer: (1) on one roller skate in each pair of  
27 roller skates or on the skateboard; (2) on the outside of the box or  
28 other container in which the roller skates or the skateboard are offered  
29 for sale at retail; or (3) on any user's guide or instruction manual  
30 provided with the roller skates or the skateboard.

31 c. The warning notice required by subsection a. of this section  
32 must be printed in clear and conspicuous type and be substantially  
33 similar to the following notice: WARNING! REDUCE THE RISK  
34 OF SERIOUS INJURY AND ONLY USE WHILE WEARING FULL  
35 PROTECTIVE GEAR -- HELMET, WRIST GUARDS, ELBOW  
36 PADS AND KNEE PADS."

37 d. A person, firm, corporation, or other legal entity regularly  
38 engaged in the business of manufacturing or assembling roller skates  
39 or skateboards who complies with the requirements of this section  
40 shall not be liable in a civil action for damages for any physical injury  
41 sustained by a user of roller skates or a skateboard as a result of that  
42 user's failure to wear a helmet in accordance with the provisions of this  
43 act.]]<sup>1</sup>

44  
45 <sup>1</sup>[5. (New section) a. A person, firm, corporation or other legal  
46 entity regularly engaged in the business of selling or renting roller

1 skates or skateboards shall post a sign at the point where the sale or  
2 rental transaction is completed stating: "STATE LAW REQUIRES A  
3 PERSON UNDER 18 YEARS OF AGE TO WEAR A HELMET  
4 WHEN ROLLER SKATING OR SKATEBOARDING." The size of  
5 the sign shall be at a minimum 15 inches in length and 8 inches in  
6 width. This notification requirement shall not apply to a seller when  
7 roller skates are sold through the use of a mail order catalog or  
8 brochure where the purchase and payment are made by mail, telephone  
9 or another telecommunications or electronic method.

10 b. A person, firm, corporation or other legal entity who fails to  
11 post the sign required by subsection a. of this section shall be subject  
12 to a penalty not to exceed \$25 a day for each day the business is open  
13 to the public and the sign is not posted. The enforcement of this  
14 subsection shall be vested in the director, the inspectors appointed  
15 under his authority, and the police or peace officers of, or inspectors  
16 duly appointed for this purpose by, any municipality or county or by  
17 the State. Jurisdiction of proceedings to collect the penalties  
18 prescribed by this act is vested in the Superior Court and the municipal  
19 court in any municipality where the defendant resides. Process shall  
20 be either a summons or warrant and shall be executed in a summary  
21 manner pursuant to "the penalty enforcement law" (N.J.S.2A:58-1 et  
22 seq.).

23 c. A person, firm, corporation or other legal entity regularly  
24 engaged in the business of renting roller skates or skateboards shall  
25 make available an approved helmet to a person under 18 years of age  
26 who rents the roller skates or skateboards for use in an area where a  
27 helmet is required, if the person does not already have a helmet in his  
28 possession. A fee may be charged for the helmet rental.

29 d. A person, firm, corporation or other legal entity regularly  
30 engaged in the business of selling or renting roller skates or  
31 skateboards who complies with the applicable requirements of this  
32 section shall not be liable in a civil action for damages for any physical  
33 injury sustained by a user of roller skates or a skateboard who is under  
34 the age of 18 years as a result of that person's failure to wear a helmet  
35 in accordance with the provisions of this act.

36 e. Sixty days before the effective date of this act, the Division of  
37 Consumer Affairs in the Department of Law and Public Safety shall  
38 make a reasonable effort to notify any person, firm, corporation or  
39 other legal entity who is regularly engaged in the business of selling or  
40 renting roller skates or skateboards of the requirements of this section.  
41 The responsibility of a person, firm, corporation or other legal entity  
42 under this section shall not be abrogated or diminished in any manner  
43 if the person fails to receive or become aware of a notice from the  
44 division.]<sup>1</sup>

1       <sup>1</sup>[6.] 1.<sup>1</sup> (New section) Every person operating any roller skates  
2 or skateboard upon a roadway shall be granted all of the rights and  
3 shall be subject to all of the duties applicable to the driver of a vehicle  
4 by chapter four of Title 39 of the Revised Statutes and all supplements  
5 thereto except as to those provisions thereof which by their nature can  
6 have no application.

7       Regulations applicable to roller skates and skateboards shall apply  
8 whenever any person operates any roller skates or skateboard upon  
9 any highway or upon any path set aside for the exclusive use of roller  
10 skates or skateboards subject to those exceptions stated herein.

11

12       <sup>1</sup>[7.] 2.<sup>1</sup> (New section) Every person operating any roller skates  
13 or skateboard upon a roadway shall ride as near to the right side of the  
14 roadway as practicable, exercising due care when passing a standing  
15 vehicle or one proceeding in the same direction; provided, however,  
16 that any person may move to the left under any of the following  
17 situations:

- 18       (a) to make a left turn from a left-turn lane or pocket;  
19       (b) to avoid debris, drains or other hazardous conditions that  
20 make it impracticable to ride at the right side of the roadway;  
21       (c) to pass a slower moving vehicle;  
22       (d) to occupy any available lane when traveling at the same speed  
23 as other traffic;  
24       (e) to travel no more than two abreast when traffic is not impeded.

25       Persons operating any roller skates or skateboards upon a roadway  
26 may travel no more than two abreast when traffic is not impeded, but  
27 otherwise shall ride in single file except on paths or parts of roadways  
28 set aside for the exclusive use of bicycles, roller skates or skateboards.

29

30       <sup>1</sup>[8. (New section) The provisions of this act shall not apply to  
31 the operators of and patrons of roller skating rinks governed by the  
32 provisions of the "New Jersey Roller Skating Rink Safety and Fair  
33 Liability Act," P.L.1991, c.28 (C.5:14-1 et seq.).]<sup>1</sup>

34

35       <sup>1</sup>[9. (New section) The director, in accordance with the  
36 provisions of the "Administrative Procedure Act," P.L.1968, c.410  
37 (C.52:14B-1 et seq.), may promulgate rules and regulations to  
38 effectuate the purposes of this act.]<sup>1</sup>

39

40       <sup>1</sup>[10.] 3.<sup>1</sup> Section 1 of P.L.1991, c.465 (C.39:4-10.1) is amended  
41 to read as follows:

- 42       1. a. A person under [14] 18 years of age shall not operate, or  
43 ride upon a bicycle as a passenger, unless that person is wearing a  
44 properly fitted and fastened bicycle helmet which meets the standards  
45 of the American National Standards Institute (ANSI Z90.4 bicycle  
46 helmet standard) or the Snell Memorial Foundation's [1984] 1990

1 Standard for Protective Headgear for Use in Bicycling. This  
2 requirement shall apply to a person who rides upon a bicycle while in  
3 a restraining seat which is attached to the bicycle or in a trailer towed  
4 by the bicycle.

5 As used in this act, "bicycle" means a vehicle with two wheels  
6 propelled solely by human power and having pedals, handle bars and  
7 a saddle-like seat. The term shall include a bicycle for two or more  
8 persons having seats and corresponding sets of pedals arranged in  
9 tandem.

10 b. The director shall publish a list of bicycle helmets which meet  
11 the standards described in subsection a. of this section and shall  
12 provide for its distribution in as many locations frequented by the  
13 public as the director deems appropriate and practicable.

14 c. The requirement in subsection a. of this section shall apply at all  
15 times while a bicycle is being operated on any property open to the  
16 public or used by the public for pedestrian and vehicular purposes;  
17 however, a municipality may by ordinance exempt from this  
18 requirement a person operating or riding on a bicycle as a passenger  
19 when the bicycle is operated:

20 (1) on a road or highway closed to motor vehicle traffic and  
21 limited to pedestrian or bicycle use at all times or only during specified  
22 periods of time during which bicycles may be operated; or

23 (2) exclusively on a trail, route, course, boardwalk, path or other  
24 area which is set aside for the use of bicycles or for the use of  
25 pedestrians and bicycle operation is not otherwise prohibited.  
26 However, an exemption may not be granted under this paragraph for  
27 any portion of a trail, route, course, boardwalk, path or other area  
28 which is immediately adjacent to a road or highway used by motor  
29 vehicle traffic and which does not contain a barrier of sufficient height  
30 and rigidity to prevent the inadvertent or deliberate entry of a bicycle  
31 operator onto the road or highway.

32 d. An ordinance enacted pursuant to subsection c. of this section  
33 shall specify those roads, highways, trails, routes, courses,  
34 boardwalks, paths or areas within the municipality where helmets are  
35 not required during the operation of a bicycle.

36 e. When a bicycle is being operated in an area where bicycle  
37 helmets are not required, the operator or a passenger, except a  
38 passenger in a restraining seat or trailer, shall dismount from the  
39 bicycle and walk whenever it is necessary to enter a crosswalk or to  
40 cross a road or highway upon which motor vehicle traffic is permitted.  
41 (cf: P.L.1991, c.465, s.1)

42

43 <sup>1</sup>[11. Section 2 of P.L.1991, c.465 (C.39:4-10.2) is amended to  
44 read as follows:

45 2. a. A person who violates a requirement of this act shall be  
46 warned of the violation by the enforcing official. The parent or legal

1 guardian of that person also may be fined a maximum of \$25 for the  
2 person's first offense and a maximum of \$100 for a subsequent offense  
3 if it can be shown that the parent or guardian failed to exercise  
4 reasonable supervision or control over the person's conduct. Penalties  
5 provided in this section for a failure to wear a helmet may be waived  
6 if an offender or his parent or legal guardian presents suitable proof  
7 that an approved helmet was owned at the time of the violation or has  
8 been purchased since the violation occurred.

9 b. All money collected as fines under subsection a. of this section  
10 and subsection a. of section 2 of P.L. , c. (C. ) (now pending before  
11 the Legislature as this bill) shall be deposited in a nonlapsing revolving  
12 fund to be known as the "Bicycle and Skating Safety Fund." Interest  
13 earned on money deposited in the fund shall accrue to the fund.  
14 Money in the fund shall be utilized by the director to provide  
15 educational programs devoted to bicycle, roller skating and  
16 skateboarding safety. If the director determines that sufficient money  
17 is available in the fund, he also may use, in a manner prescribed by rule  
18 and regulation, the money to assist low income families in purchasing  
19 approved bicycle helmets. For the purposes of this subsection, "low  
20 income family" means a family which qualifies for low income housing  
21 under the standards promulgated by the Council on Affordable  
22 Housing pursuant to the provisions of P.L.1985, c.222 (C.52:27D-301  
23 et seq.).

24 (cf: P.L.1991, c.465, s.2)]<sup>1</sup>

25  
26 <sup>1</sup>[12.] 4.<sup>1</sup> Section 3 of P.L. 1991, c.465 (C.39:4-10.3) is amended  
27 to read as follows:

28 3. a. A person regularly engaged in the business of selling or  
29 renting bicycles shall post a sign at the point where the sale or rental  
30 transaction is completed stating: "STATE LAW REQUIRES A  
31 BICYCLE RIDER UNDER [14] 18 YEARS OF AGE TO WEAR A  
32 HELMET." The size of the sign shall be at a minimum 15 inches in  
33 length and 8 inches in width. This notification requirement shall not  
34 apply to a seller when a bicycle is sold through the use of a catalog or  
35 brochure and the purchase and payment are made by mail, telephone  
36 or another telecommunications or electronic method.

37 A person who fails to post a sign required by this subsection within  
38 60 days after the effective date of this amendatory act (P.L.1995,  
39 c.177) shall be subject to a penalty not to exceed \$25 a day for each  
40 day the business is open to the public and the sign is not posted. The  
41 enforcement of this subsection shall be vested in the Director of the  
42 Division of Consumer Affairs of the Department of Law and Public  
43 Safety, the inspectors appointed under his authority, and the police or  
44 peace officers of, or inspectors duly appointed for this purpose, by any  
45 municipality or county or by the State. Jurisdiction of proceedings to  
46 collect the penalties prescribed by this act is vested in the Superior

1 Court and the municipal court in any municipality where the defendant  
2 may be apprehended or where he may reside. Process shall be either  
3 a summons or warrant and shall be executed in a summary manner  
4 pursuant to "the penalty enforcement law" (N.J.S.2A:58-1 et seq.).

5 b. A person regularly engaged in the business of renting bicycles  
6 shall provide a helmet to a person under [14] 18 years of age who will  
7 operate the bicycle in an area where a helmet is required, if the person  
8 does not already have a helmet in his possession. A fee may be charged  
9 for the helmet rental.

10 c. A person regularly engaged in the business of selling or renting  
11 bicycles who complies with the applicable requirements of this section  
12 shall not be liable in a civil action for damages for any physical injury  
13 sustained by a bicycle operator or passenger who is under the age of  
14 [14] 18 years as a result of the operator's or passenger's failure to  
15 wear a helmet or to wear a properly fitted or fastened helmet in  
16 violation of the requirements of this act.

17 d. Within 60 days after the effective date of this amendatory act  
18 (P.L.1995, c.177), the Division of Consumer Affairs in the Department  
19 of Law and Public Safety shall make a reasonable effort to notify any  
20 person who is regularly engaged in the business of selling or renting  
21 bicycles of the requirements of this section. The responsibility of a  
22 person under this section shall not be abrogated or diminished in any  
23 manner if the person fails to receive or become aware of a notice from  
24 the division.

25 (cf: P.L.1995, c.177, s.1)

26  
27 <sup>1</sup>[13.]5.<sup>1</sup> This act shall take effect on the first day of the seventh  
28 month following enactment <sup>1</sup>[ , except that section 9 shall take effect  
29 immediately]<sup>1</sup>.

30  
31  
32 \_\_\_\_\_  
33  
34 Makes roller skaters and skateboarders subject to applicable motor  
35 vehicle laws; requires bicycle riders under age 18 to wear helmets.