

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 2195

STATE OF NEW JERSEY

ADOPTED SEPTEMBER 16, 1996

Sponsored by Assemblymen KELLY and O'TOOLE

1 AN ACT concerning the safety of certain persons when riding bicycles,
2 or operating roller skates or skateboards, and supplementing
3 chapter 4 of Title 39 of the Revised Statutes and amending
4 P.L.1991, c.465.

5
6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8
9 1. (New section) a. As used in this act:
10 "Director" means the Director of Consumer Affairs in the
11 Department of Law and Public Safety.

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

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

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

26
27 2. (New section) a. A person who violates the provisions of
28 section 1 of this act by failing to wear an approved helmet shall be
29 warned of the violation by the enforcing official. The parent or legal
30 guardian of the violator may be fined a maximum of \$25 for a first
31 offense and a maximum of \$100 for a subsequent offense. The
32 penalties provided under the provisions of this subsection for failing

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.

1 to wear an approved helmet may be waived if the parent or legal
2 guardian of the violator presents suitable proof that an approved
3 helmet or appropriate personal protection equipment has been
4 purchased since the violation occurred.

5 b. All moneys collected as fines under subsection a. of this section
6 shall be deposited in the "Bicycle and Skating Safety Fund" pursuant
7 to section 2 of P.L.1991, c.465 (C.39:4-10.2).

8
9 3. (New section) The failure of any person to comply with the
10 provisions of section 1 of this act shall not constitute negligence per
11 se, contributory negligence, or assumption of risk, and shall not in any
12 way bar, preclude or foreclose an action for personal injury or
13 wrongful death by or on behalf of such person.

14
15 4. (New section) a. It shall be unlawful to manufacture,
16 assemble, sell, offer to sell, or distribute roller skates or skateboards
17 unless such roller skates or skateboards contain a warning notice
18 consistent with the requirements of this section.

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

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

32 d. A person, firm, corporation, or other legal entity regularly
33 engaged in the business of manufacturing or assembling roller skates
34 or skateboards who complies with the requirements of this section
35 shall not be liable in a civil action for damages for any physical injury
36 sustained by a user of roller skates or a skateboard as a result of that
37 user's failure to wear a helmet in accordance with the provisions of this
38 act.

39
40 5. (New section) a. A person, firm, corporation or other legal
41 entity regularly engaged in the business of selling or renting roller
42 skates or skateboards shall post a sign at the point where the sale or
43 rental transaction is completed stating: **"STATE LAW REQUIRES A
44 PERSON UNDER 18 YEARS OF AGE TO WEAR A HELMET
45 WHEN ROLLER SKATING OR SKATEBOARDING."** The size of
46 the sign shall be at a minimum 15 inches in length and 8 inches in

1 width. This notification requirement shall not apply to a seller when
2 roller skates are sold through the use of a mail order catalog or
3 brochure where the purchase and payment are made by mail, telephone
4 or another telecommunications or electronic method.

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

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

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

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

40

41 6. (New section) Every person operating any roller skates or
42 skateboard upon a roadway shall be granted all of the rights and shall
43 be subject to all of the duties applicable to the driver of a vehicle by
44 chapter four of Title 39 of the Revised Statutes and all supplements
45 thereto except as to those provisions thereof which by their nature can
46 have no application.

1 Regulations applicable to roller skates and skateboards shall apply
2 whenever any person operates any roller skates or skateboard upon
3 any highway or upon any path set aside for the exclusive use of roller
4 skates or skateboards subject to those exceptions stated herein.

5
6 7. (New section) Every person operating any roller skates or
7 skateboard upon a roadway shall ride as near to the right side of the
8 roadway as practicable, exercising due care when passing a standing
9 vehicle or one proceeding in the same direction; provided, however,
10 that any person may move to the left under any of the following
11 situations:

12 (a) to make a left turn from a left-turn lane or pocket;

13 (b) to avoid debris, drains or other hazardous conditions that make
14 it impracticable to ride at the right side of the roadway;

15 (c) to pass a slower moving vehicle;

16 (d) to occupy any available lane when traveling at the same speed
17 as other traffic;

18 (e) to travel no more than two abreast when traffic is not impeded.

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

23
24 8. (New section) The provisions of this act shall not apply to the
25 operators of and patrons of roller skating rinks governed by the
26 provisions of the "New Jersey Roller Skating Rink Safety and Fair
27 Liability Act," P.L.1991, c.28 (C.5:14-1 et seq.).

28
29 9. (New section) The director, in accordance with the provisions
30 of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1
31 et seq.), may promulgate rules and regulations to effectuate the
32 purposes of this act.

33
34 10. Section 1 of P.L.1991, c.465 (C.39:4-10.1) is amended to
35 read as follows:

36 1. a. A person under [14] 18 years of age shall not operate, or
37 ride upon a bicycle as a passenger, unless that person is wearing a
38 properly fitted and fastened bicycle helmet which meets the standards
39 of the American National Standards Institute (ANSI Z90.4 bicycle
40 helmet standard) or the Snell Memorial Foundation's [1984] 1990
41 Standard for Protective Headgear for Use in Bicycling. This
42 requirement shall apply to a person who rides upon a bicycle while in
43 a restraining seat which is attached to the bicycle or in a trailer towed
44 by the bicycle.

45 As used in this act, "bicycle" means a vehicle with two wheels
46 propelled solely by human power and having pedals, handle bars and

1 a saddle-like seat. The term shall include a bicycle for two or more
2 persons having seats and corresponding sets of pedals arranged in
3 tandem.

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

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

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

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

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

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

36

37 11. Section 2 of P.L.1991, c.465 (C.39:4-10.2) is amended to
38 read as follows:

39 2. a. A person who violates a requirement of this act shall be
40 warned of the violation by the enforcing official. The parent or legal
41 guardian of that person also may be fined a maximum of \$25 for the
42 person's first offense and a maximum of \$100 for a subsequent offense
43 if it can be shown that the parent or guardian failed to exercise
44 reasonable supervision or control over the person's conduct. Penalties
45 provided in this section for a failure to wear a helmet may be waived
46 if an offender or his parent or legal guardian presents suitable proof

1 that an approved helmet was owned at the time of the violation or has
2 been purchased since the violation occurred.

3 b. All money collected as fines under subsection a. of this section
4 and subsection a. of section 2 of P.L. , c. (C.) (now pending
5 before the Legislature as this bill) shall be deposited in a nonlapsing
6 revolving fund to be known as the "Bicycle and Skating Safety Fund."
7 Interest earned on money deposited in the fund shall accrue to the
8 fund. Money in the fund shall be utilized by the director to provide
9 educational programs devoted to bicycle, roller skating and
10 skateboarding safety. If the director determines that sufficient money
11 is available in the fund, he also may use, in a manner prescribed by rule
12 and regulation, the money to assist low income families in purchasing
13 approved bicycle helmets. For the purposes of this subsection, "low
14 income family" means a family which qualifies for low income housing
15 under the standards promulgated by the Council on Affordable
16 Housing pursuant to the provisions of P.L.1985, c.222 (C.52:27D-301
17 et seq.).
18 (cf: P.L.1991, c.465, s.2)

19

20 12. Section 3 of P.L. 1991, c.465 (C.39:4-10.3) is amended to
21 read as follows:

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

31 A person who fails to post a sign required by this subsection
32 within 60 days after the effective date of this amendatory act
33 (P.L.1995, c.177) shall be subject to a penalty not to exceed \$25 a day
34 for each day the business is open to the public and the sign is not
35 posted. The enforcement of this subsection shall be vested in the
36 Director of the Division of Consumer Affairs of the Department of
37 Law and Public Safety, the inspectors appointed under his authority,
38 and the police or peace officers of, or inspectors duly appointed for
39 this purpose, by any municipality or county or by the State.
40 Jurisdiction of proceedings to collect the penalties prescribed by this
41 act is vested in the Superior Court and the municipal court in any
42 municipality where the defendant may be apprehended or where he
43 may reside. Process shall be either a summons or warrant and shall be
44 executed in a summary manner pursuant to "the penalty enforcement
45 law" (N.J.S.2A:58-1 et seq.).

46 b. A person regularly engaged in the business of renting bicycles

1 shall provide a helmet to a person under [14] 18 years of age who will
2 operate the bicycle in an area where a helmet is required, if the person
3 does not already have a helmet in his possession. A fee may be charged
4 for the helmet rental.

5 c. A person regularly engaged in the business of selling or renting
6 bicycles who complies with the applicable requirements of this section
7 shall not be liable in a civil action for damages for any physical injury
8 sustained by a bicycle operator or passenger who is under the age of
9 [14] 18 years as a result of the operator's or passenger's failure to
10 wear a helmet or to wear a properly fitted or fastened helmet in
11 violation of the requirements of this act.

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

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

21

22 13. This act shall take effect on the first day of the seventh month
23 following enactment, except that section 9 shall take effect
24 immediately.

25

26

27

28

29 Requires bicycle riders, roller skaters and skateboarders under age 18
30 to wear helmets.