

ASSEMBLY SUBSTITUTE FOR  
ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 2195**

**STATE OF NEW JERSEY**

ADOPTED DECEMBER 18, 1997

**Sponsored by Assemblymen KELLY, O'TOOLE and Bagger**

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

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. (New section) a. As used in this act:  
9 "Director" means the Director of Consumer Affairs in the  
10 Department of Law and Public Safety.

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

14 b. A person under 14 years of age shall not operate any roller  
15 skates or skateboard unless that person is wearing a properly fitted and  
16 fastened helmet which meets the standards of the American National  
17 Standards Institute (ANSI Z90.4 bicycle helmet standard), the Snell  
18 Memorial Foundation's 1990 Standard for Protective Headgear for  
19 Use in Bicycling, the American Society for Testing and Materials  
20 (ASTM) standard or other such standard, as appropriate.

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

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

**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 penalties provided under the provisions of this subsection for failing  
2 to wear an approved helmet may be waived if the parent or legal  
3 guardian of the violator presents suitable proof that an approved  
4 helmet or appropriate personal protection equipment has been  
5 purchased since the violation occurred.

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

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

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

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

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

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

40  
41 5. (New section) a. A person, firm, corporation or other legal  
42 entity regularly engaged in the business of selling or renting roller  
43 skates or skateboards shall post a sign at the point where the sale or  
44 rental transaction is completed stating: "STATE LAW REQUIRES A  
45 PERSON UNDER 14 YEARS OF AGE TO WEAR A HELMET  
46 WHEN ROLLER SKATING OR SKATEBOARDING." The size of

1 the sign shall be at a minimum 15 inches in length and 8 inches in  
2 width. This notification requirement shall not apply to a seller when  
3 roller skates are sold through the use of a mail order catalog or  
4 brochure where the purchase and payment are made by mail, telephone  
5 or another telecommunications or electronic method.

6 b. A person, firm, corporation or other legal entity who fails to  
7 post the sign required by subsection a. of this section shall be subject  
8 to a penalty not to exceed \$25 a day for each day the business is open  
9 to the public and the sign is not posted. The enforcement of this  
10 subsection shall be vested in the director, the inspectors appointed  
11 under his authority and the police or peace officers of, or inspectors  
12 duly appointed for this purpose by, any municipality or county or the  
13 State. Jurisdiction of proceedings to collect the penalties prescribed  
14 by this act is vested in the Superior Court and the municipal court in  
15 any municipality where the defendant resides. Process shall be either  
16 a summons or warrant and shall be executed in a summary manner  
17 pursuant to "the penalty enforcement law" (N.J.S.2A:58-1 et 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 14 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 14 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 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 years of age shall not operate, or ride  
37 upon a bicycle as a passenger, unless that person is wearing a properly  
38 fitted and fastened bicycle helmet which meets the standards of the  
39 American National Standards Institute (ANSI Z90.4 bicycle helmet  
40 standard) or the Snell Memorial Foundation's [1984] 1990 Standard  
41 for Protective Headgear for Use in Bicycling. This requirement shall  
42 apply to a person who rides upon a bicycle while in a restraining seat  
43 which is attached to the bicycle or in a trailer towed by the bicycle.

44 As used in this act, "bicycle" means a vehicle with two wheels  
45 propelled solely by human power and having pedals, handle bars and  
46 a saddle-like seat. The term shall include a bicycle for two or more

1 persons having seats and corresponding sets of pedals arranged in  
2 tandem.

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

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

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

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

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

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

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

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

1 been purchased since the violation occurred.

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

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19 12. This act shall take effect on the first day of the seventh month  
20 following enactment, except that section 9 shall take effect  
21 immediately.

22

#### 23 STATEMENT

24

25 This Assembly Substitute for the Assembly Committee Substitute  
26 for Assembly, No. 2195 establishes the requirement that all persons  
27 under the age of 14 years must wear a protective helmet when  
28 operating any roller skates or skateboard on public property. "Roller  
29 skates," as defined in the substitute, means not only traditional roller  
30 skates, but also roller blades and in-line skates.

31 The helmet worn must meet the standards of the American  
32 National Standards Institute (ANSI Z90.4 bicycle helmet standard),  
33 the Snell Memorial Foundations 1990 Standard for Protective  
34 Headgear for Use in Bicycling, the American Society for Testing and  
35 Materials (ASTM) standard or other such standard, as appropriate.

36 A person who violates the provisions of this substitute by failing  
37 to wear an approved helmet would be warned of the violation by the  
38 enforcing official. The parent or legal guardian of the violator may be  
39 fined a maximum of \$25 for a first offense and a maximum of \$100 for  
40 a subsequent offense. These penalties may be waived, however, if the  
41 parent or legal guardian of the violator presents suitable proof that an  
42 approved helmet has been purchased since the violation occurred.

43 All moneys collected as fines are to be deposited into the "Bicycle  
44 and Skating Safety Fund." This fund is a revised version of the  
45 "Bicycle Safety Fund" which was established under section 2 of  
46 P.L.1991, c.465 (C.39:4-10.2) as the depository of fines assessed

1 under the bicycle helmet law. The moneys deposited in this new fund  
2 are to be used to provide educational programs for roller skating and  
3 skateboard safety, as well as the current programs for bicycle safety.  
4 As with the "Bicycle Safety Fund," the substitute provides that if there  
5 are sufficient moneys in the "Bicycle and Skating Safety Fund," the  
6 director may utilize those moneys to assist low income families in  
7 purchasing approved helmets.

8 The substitute specifies that the failure to wear a helmet would not  
9 constitute negligence per se, contributory negligence or assumption of  
10 risk, and would not in any way bar, preclude or foreclose an action for  
11 personal injury or wrongful death.

12 The substitute clarifies that roller skaters and skateboarders, like  
13 bicycle riders, have all the rights and are subject to all of the duties  
14 applicable to them under the State's motor vehicle statutes when  
15 operating upon a public roadway.

16 The regulatory scheme set forth in this substitute is patterned upon  
17 the current statutory provisions governing bicycle safety and requiring  
18 riders under the age of 14 to wear helmets.

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23 Requires roller skaters and skateboarders under age 14 to wear  
24 helmets.