

§§1-9
C. 39:4-10.5
To
39:4-10.13
§12
Note To §§1-11

P.L. 1997, CHAPTER 411, *approved January 19, 1998*
Assembly Substitute for
Senate Committee Substitute for
Senate, Nos. 537 and 475

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
31 penalties provided under the provisions of this subsection for failing
32 to wear an approved helmet may be waived if the parent or legal

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

Matter underlined thus is new matter.

1 guardian of the violator presents suitable proof that an approved
2 helmet or appropriate personal protection equipment has been
3 purchased since the violation occurred.

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

7
8 3. (New section) The failure of any person to comply with the
9 provisions of section 1 of this act shall not constitute negligence per
10 se, contributory negligence or assumption of risk, and shall not in any
11 way bar, preclude or foreclose an action for personal injury or
12 wrongful death by or on behalf of such person.

13
14 4. (New section) a. It shall be unlawful to manufacture,
15 assemble, sell, offer to sell or distribute roller skates or skateboards
16 unless such roller skates or skateboards contain a warning notice
17 consistent with the requirements of this section.

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

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

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

38
39 5. (New section) a. A person, firm, corporation or other legal
40 entity regularly engaged in the business of selling or renting roller
41 skates or skateboards shall post a sign at the point where the sale or
42 rental transaction is completed stating: "STATE LAW REQUIRES A
43 PERSON UNDER 14 YEARS OF AGE TO WEAR A HELMET
44 WHEN ROLLER SKATING OR SKATEBOARDING." The size of
45 the sign shall be at a minimum 15 inches in length and 8 inches in
46 width. This notification requirement shall not apply to a seller when

1 roller skates are sold through the use of a mail order catalog or
2 brochure where the purchase and payment are made by mail, telephone
3 or another telecommunications or electronic method.

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

16 c. A person, firm, corporation or other legal entity regularly
17 engaged in the business of renting roller skates or skateboards shall
18 make available an approved helmet to a person under 14 years of age
19 who rents the roller skates or skateboards for use in an area where a
20 helmet is required, if the person does not already have a helmet in his
21 possession. A fee may be charged for the helmet rental.

22 d. A person, firm, corporation or other legal entity regularly
23 engaged in the business of selling or renting roller skates or
24 skateboards who complies with the applicable requirements of this
25 section shall not be liable in a civil action for damages for any physical
26 injury sustained by a user of roller skates or a skateboard who is under
27 the age of 14 years as a result of that person's failure to wear a helmet
28 in accordance with the provisions of this act.

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

38
39 6. (New section) Every person operating any roller skates or
40 skateboard upon a roadway shall be granted all of the rights and shall
41 be subject to all of the duties applicable to the driver of a vehicle by
42 chapter four of Title 39 of the Revised Statutes and all supplements
43 thereto, except as to those provisions thereof which by their nature can
44 have no application.

45 Regulations applicable to roller skates and skateboards shall apply
46 whenever any person operates any roller skates or skateboard upon

1 any highway or upon any path set aside for the exclusive use of roller
2 skates or skateboards subject to those exceptions stated herein.

3

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

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

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

13 (c) to pass a slower moving vehicle;

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

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

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

21

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

26

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

31

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

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

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

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

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

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

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

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

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

33
34 11. Section 2 of P.L.1991, c.465 (C.39:4-10.2) is amended to
35 read as follows:

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

46 b. All money collected as fines under subsection a. of this section

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

15 (cf: P.L.1991, c.465, s.2)

16

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

20

21

STATEMENT

22

23 This Assembly Substitute for the Senate Committee Substitute for
24 Senate, Nos. 537 and 475 establishes the requirement that all persons
25 under the age of 14 years must wear a protective helmet when
26 operating any roller skates or skateboard on public property. "Roller
27 skates," as defined in the substitute, means not only traditional roller
28 skates, but also roller blades and in-line skates.

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

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

41 All moneys collected as fines are to be deposited into the "Bicycle
42 and Skating Safety Fund." This fund is a revised version of the
43 "Bicycle Safety Fund" which was established under section 2 of
44 P.L.1991, c.465 (C.39:4-10.2) as the depository of fines assessed
45 under the bicycle helmet law. The moneys deposited in this new fund
46 are to be used to provide educational programs for roller skating and

1 skateboard safety, as well as the current programs for bicycle safety.
2 As with the "Bicycle Safety Fund," the substitute provides that if there
3 are sufficient moneys in the "Bicycle and Skating Safety Fund," the
4 director may utilize those moneys to assist low income families in
5 purchasing approved helmets.

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

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

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

17

18

19

20

21 Requires roller skaters and skateboarders under age 14 to wear
22 helmets.