

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET, ALBANY, NY 12231

5

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED
AUG 13 2001

County
~~City~~ of ERIE
~~Town~~
~~Village~~

MISCELLANEOUS
& STATE RECORDS

Local Law No. 5 of the year 2001

A local law in relation to the required use of protective safety helmets on
(Insert Title)
foot-powered scooters and skateboards in Erie County.

Be it enacted by the Legislature of the
(Name of Legislative Body)

County
~~City~~ of ERIE
~~Town~~
~~Village~~ as follows:

SECTION 1. Legislative Intent. The Erie County Legislature hereby finds, declares and determines that young persons riding or operating foot-powered scooters or skateboards on public and private roads, on sidewalks and in other places are at risk of sustaining serious injury due to falls occurring while the operator or passenger is at high speed. It is further determined that incidence of serious injury is reduced substantially by the wearing of safety helmets upon the head and by the wearing of other protective safety equipment. It is finally determined that a law requiring young persons to protect themselves by using safety equipment, including helmets, is in the public interest, and will result in decreased incidences of serious injury to young persons operating foot powered scooters and skateboards.

SECTION 2. Helmet Requirements. No person under the age of fourteen years shall operate a foot-powered scooter or skateboard, or ride as a passenger on a foot powered scooter unless such operator or passenger is wearing a helmet meeting the standards of the American National Standards Institute (Anzi Z 90.4 bicycle helmet standards) or of the Snell Memorial Foundation 1984 Standard for Protective Headgear For Use In Bicycling or by the United States Consumer Products Safety Commission, as last revised by said organizations. For the purposes of this law, "wearing a helmet" shall mean having a helmet of good fit fastened securely upon the head with the helmet straps.

SECTION 3. Enforcement. The Erie County Sheriff's Office, New York State Police and all local police authorities with jurisdiction within Erie County shall take any and all actions to enforce this law in any court of competent jurisdiction. A police officer shall issue an appearance ticket or summons and local criminal court accusatory instrument, as these terms are defined in the Criminal Procedure Law, for a violation of Section 2 of this law by a person less than fourteen years of age, to the parent or guardian of such person, if the violation by such person occurs in the presence of such person's parent or guardian, and where such parent or guardian is eighteen years of age or more. Such appearance ticket or summons and local criminal court accusatory instrument shall only be issued to such parent or guardian, and shall not be issued to the person less than fourteen years of age.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

SECTION 4. Civil Penalty.

- a. Any person who receives a ticket or summons and local criminal court accusatory instrument under Section 3 of this law shall pay a civil fine not to exceed \$50.
- b. Waiver of Fine. The court may waive any fine for which a person who violates the provisions of Section 2 of this law if such person supplies proof to the court that between the date of violation and the appearance date for such violation such person purchased or rented a helmet. Such waiver of said fine shall not apply to any subsequent conviction under Section 2 of this law. The court may waive any fine for which a person who violates the provisions of Section 2 of this law 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 any statewide helmet distribution program, as established in section two hundred six of the Public Health Law, or a local distribution program.

SECTION 5. No effect upon personal injury or wrongful death lawsuit. The failure of any person to comply with the provisions of this 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 6. Severability. If any clause, sentence, paragraph, section, part or provision of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such adjudication shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, part or provision thereof directly involved in the proceeding or action in which such adjudication has been rendered.

SECTION 7. Effective Date. This law shall be effective immediately upon filing with the Secretary of State pursuant with Section 27 of the New York Municipal Home Rule Law.

(1-a)

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. 5 of 2001 of the (County)(City)(Town)(Village) of ERIE was duly passed by the Erie County Legislature on July 5 2001, and was (approved)(~~not approved~~)(repassed after disapproval) by the Erie County Executive and was deemed duly adopted on August 7 2001, in accordance with the applicable provisions of law.
(Elective Chief Executive Officer*)

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 20____. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.
(Elective Chief Executive Officer*)

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.
(Elective Chief Executive Officer*)

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

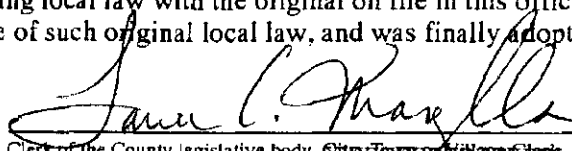
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20_____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20_____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph.....2....., above.



Clerk of the County legislative body, City, Town or Village Clerk
or officer designated by local legislative body

Laurie A. Manzella

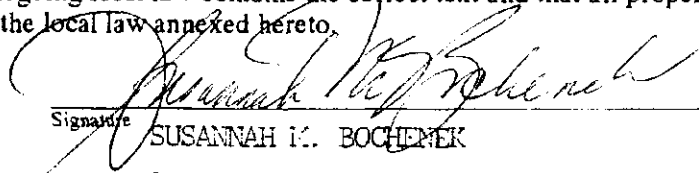
Date: August 9, 2001

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF ERIE

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

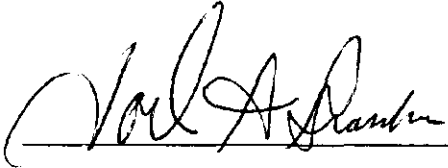


Signature
SUSANNAH K. BOCHEREK
1st Assistant County Attorney
Title

County
~~CITY~~ of ERIE
~~TOWN~~
~~VILLAGE~~

Date: 8/9/01

A Public Hearing was held on the foregoing Local Law Intro. No. 8-2001 on Tuesday, August 7, 2001, due notice thereof having been published in the official newspapers of the County of Erie designated for this purpose, and after due deliberation thereon, I, JOEL A. GIAMBRA, County Executive of Erie County, do hereby APPROVE and SIGN said Local Law this 7th day of August, 2001.



A Public Hearing was held on the foregoing Local Law Intro. No. 8-2001 on Tuesday, August 7, 2001, due notice thereof having been published in the official newspapers of the County of Erie designated for this purpose, and after due deliberation thereon, I, JOEL A. GIAMBRA, County Executive of Erie County, do hereby DISAPPROVE and VETO said Local Law this 7th day of August, 2001.
