

STATE OF NEW YORK

S. 3954

A. 4029

2017-2018 Regular Sessions

SENATE - ASSEMBLY

January 31, 2017

IN SENATE -- Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Agriculture

IN ASSEMBLY -- Introduced by M. of A. THIELE, CAHILL, CRESPO, ENGLE-BRIGHT, McDONOUGH, MONTESANO, MORINELLO, MURRAY, TITONE, RAIA, ROSENTHAL, SEPULVEDA, SKOUFIS -- Multi-Sponsored by -- M. of A. COOK, GALEF, JAFFEE, LUPINACCI, B. MILLER, MOSLEY, SIMON -- read once and referred to the Committee on Agriculture

AN ACT to amend the agriculture and markets law, in relation to the confinement of companion animals in unattended motor vehicles under conditions that endanger the health or well-being of an animal; and to repeal section 353-d of such law relating thereto

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 353-d of the agriculture and markets law is REPEALED and a new section 353-d is added to read as follows:

§ 353-d. Confinement of companion animals in unattended vehicles under conditions that endanger the health or well-being of an animal. 1. A person shall not leave or confine an animal in any unattended motor vehicle under conditions that endanger the health or well-being of an animal due to heat, cold, lack of adequate ventilation, or lack of food or water, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the animal.

2. This section shall not prevent a person from taking reasonable steps that are necessary to remove an animal from a motor vehicle if the person holds a reasonable belief that the animal's safety is in immediate danger from heat, cold, lack of adequate ventilation, lack of food or water, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the animal.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD04495-01-7

1 (a) A person who removes an animal from a vehicle in accordance with
2 this subdivision is not criminally liable for actions taken reasonably
3 and in good faith if the person does all of the following:

4 (i) determines the vehicle is locked or there is otherwise no reason-
5 able manner for the animal to be removed from the vehicle;

6 (ii) has a good faith belief that forcible entry into the vehicle is
7 necessary because the animal is in imminent danger of suffering harm if
8 it is not immediately removed from the vehicle, and, based upon the
9 circumstances known to the person at the time, the belief is a reason-
10 able one;

11 (iii) has contacted a local law enforcement agency, the fire depart-
12 ment, animal control, or the "911" emergency service prior to forcibly
13 entering the vehicle;

14 (iv) remains with the animal in a safe location, out of the elements
15 but reasonably close to the vehicle, until a peace officer, humane offi-
16 cer, animal control officer, or another emergency responder arrives;

17 (v) used no more force to enter the vehicle and remove the animal from
18 the vehicle than was necessary under the circumstances; and

19 (vi) immediately turns the animal over to a representative from law
20 enforcement, animal control, or another emergency responder who responds
21 to the scene.

22 (b) There shall not be any civil liability on the part of, and no
23 cause of action shall accrue against, a person for property damage or
24 trespass to a motor vehicle, if the damage was caused while the person
25 was rescuing an animal in accordance with this section. The immunity
26 from civil liability for property damage to a motor vehicle does not
27 affect a person's civil liability or immunity from civil liability for
28 rendering aid to an animal.

29 3. This section shall not prevent a police officer, peace officer,
30 peace officer acting as an agent of a duly incorporated humane society,
31 firefighter, humane officer, animal control officer, or other emergency
32 responder from removing an animal from a motor vehicle if the animal's
33 safety appears to be in immediate danger from heat, cold, lack of
34 adequate ventilation, lack of food or water, or other circumstances that
35 could reasonably be expected to cause suffering, disability, or death to
36 the animal.

37 (a) A police officer, peace officer, peace officer acting as an agent
38 of a duly incorporated humane society, firefighter, humane officer,
39 animal control officer, or other emergency responder who removes an
40 animal from a motor vehicle, or who takes possession of an animal that
41 has been removed from a motor vehicle, shall deliver the animal to the
42 duly incorporated humane society or society for the prevention of cruel-
43 ty to animals, or designated agent thereof, in the jurisdiction where
44 the animal or animals were seized, or, if the officer deems necessary,
45 to a veterinary hospital for treatment. The owner of the animal removed
46 from the vehicle may be required to pay for charges that have accrued
47 for the maintenance, care, medical treatment, or impoundment of the
48 animal.

49 (b) A peace officer, firefighter, humane officer, animal control offi-
50 cer, or other emergency responder is authorized to take all steps that
51 are reasonably necessary for the removal of an animal from a motor vehi-
52 cle, including, but not limited to, breaking into the motor vehicle,
53 after a reasonable effort to locate the owner or other person responsi-
54 ble.

55 (c) A peace officer, firefighter, humane officer, animal control offi-
56 cer, or other emergency responder who removes an animal from a motor

1 vehicle or who receives an animal rescued from a vehicle from another
2 person shall, in a secure and conspicuous location on or within the
3 motor vehicle, leave written notice bearing his or her name and office,
4 and the address of the location where the animal can be claimed. The
5 animal may be claimed by the owner only after payment of all charges
6 that have accrued for the maintenance, care, medical treatment, or
7 impoundment of the animal.

8 (d) Except as provided in paragraphs (a) and (c) of this subdivision,
9 this section does not affect in any way existing liabilities or immuni-
10 ties in current law, or create any new immunities or liabilities.

11 4. Nothing in this section shall preclude prosecution under this
12 section or any other provision of law, including local laws or ordi-
13 nances.

14 5. Nothing in this section shall be deemed to prohibit the transporta-
15 tion of horses, cattle, pigs, sheep, poultry, or other agricultural
16 animals in motor vehicles designed to transport such animals for agri-
17 cultural purposes.

18 6. Unless the animal suffers serious injury or death, a first
19 conviction for violation of this section is punishable by a fine not
20 exceeding one hundred dollars per animal. If the animal suffers serious
21 injury or death, a violation of this section is punishable by a fine not
22 exceeding five hundred dollars or imprisonment not exceeding six months,
23 or both. Any subsequent violation of this section, regardless of injury
24 or death to the animal, is also punishable by a fine not exceeding five
25 hundred dollars or imprisonment not exceeding six months, or both.

26 § 2. This act shall take effect immediately.