S T A T E O F N E W Y O R K

240

2015-2016 Regular Sessions

I N S E N A T E

(PREFILED)

January 7, 2015

Introduced by Sen. MARTINS -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, in relation to immunity from civil liability for emergency removal of a child from a motor vehicle

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The vehicle and traffic law is amended by adding a new section 389 to read as follows:

S 389. IMMUNITY FROM CIVIL LIABILITY FOR EMERGENCY REMOVAL OF A CHILD FROM A MOTOR VEHICLE. 1. ANY PERSON ACTING REASONABLY AND IN GOOD FAITH SHALL BE IMMUNE FROM CIVIL LIABILITY FOR ANY DAMAGE RESULTING FROM THE EMERGENCY MEASURE OF FORCIBLY ENTERING A MOTOR VEHICLE, AS SUCH TERM IS DEFINED IN SECTION ONE HUNDRED TWENTY-FIVE OF THIS CHAPTER, FOR THE PURPOSE OF REMOVING AN UNSUPERVISED OR UNATTENDED CHILD UNDER THE AGE OF EIGHT IF THE PERSON, WITHOUT NEGLIGENCE ON HIS OR HER PART AND PRIOR TO SUCH FORCIBLE ENTRY:

A. DETERMINES THE VEHICLE IS LOCKED AND THERE IS OTHERWISE NO REASONABLE METHOD FOR THE CHILD TO BE REMOVED FROM THE MOTOR VEHICLE; AND

B. HAS A GOOD FAITH REASONABLE BELIEF BASED UPON THE CIRCUMSTANCES KNOWN TO THE PERSON AT THE TIME THAT THE EMERGENCY MEASURE OF FORCIBLE ENTRY INTO THE MOTOR VEHICLE IS NECESSARY BECAUSE THE CHILD IS IN IMMINENT DANGER OF SUFFERING HARM WHICH REQUIRES IMMEDIATE ACTION BY SUCH PERSON TO REMOVE THE CHILD FROM THE MOTOR VEHICLE AND SUCH PERSON USED NO MORE FORCE THAN WAS REASONABLE AND NECESSARY UNDER THE CIRCUMSTANCES TO ENTER THE VEHICLE AND REMOVE THE CHILD.

2. ANY PERSON ACTING REASONABLY AND IN GOOD FAITH PURSUANT TO THIS SECTION SHALL CONTACT EITHER THE LOCAL LAW ENFORCEMENT AGENCY, THE FIRE DEPARTMENT OR THE 911 OPERATOR PRIOR TO SUCH FORCIBLE ENTRY OR AS SOON AS IS REASONABLY PRACTICABLE AND SHALL REMAIN WITH THE CHILD IN A SAFE

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

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LOCATION REASONABLY CLOSE TO THE VEHICLE UNTIL THE LOCAL LAW ENFORCEMENT AGENCY, FIRE DEPARTMENT OR OTHER EMERGENCY RESPONDER ARRIVES AND UPON ARRIVAL SHALL IMMEDIATELY DELIVER THE CHILD TO SUCH EMERGENCY RESPONDER.

3. THIS SECTION SHALL NOT APPLY TO ATTEMPTS TO RENDER AID TO THE CHILD BEYOND WHAT IS AUTHORIZED BY THIS SECTION.

S 2. This act shall take effect immediately.