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

7761

2015-2016 Regular Sessions

I N A S S E M B L Y

May 26, 2015

Introduced by M. of A. CERETTO -- read once and referred to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, in relation to removing an unsupervised or unattended minor from a motor vehicle

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

Section 1. Article 12 of the vehicle and traffic law is amended by adding a new section 389 to read as follows:

S 389. REMOVING AN UNSUPERVISED OR UNATTENDED MINOR FROM A MOTOR VEHICLE. 1. ANY PERSON ACTING REASONABLY AND IN GOOD FAITH SHALL BE IMMUNE FROM BOTH CRIMINAL AND 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 MINOR 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 MINOR 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 MINOR IS IN IMMINENT DANGER OF SUFFERING HARM WHICH REQUIRES IMMEDIATE ACTION BY SUCH PERSON TO REMOVE THE MINOR FROM THE MOTOR VEHICLE; AND

(C) USED NO MORE FORCE THAN WAS REASONABLE AND NECESSARY UNDER THE CIRCUMSTANCES TO ENTER THE VEHICLE AND REMOVE THE MINOR; AND

(D) CONTACTED EITHER THE LOCAL LAW ENFORCEMENT AGENCY, THE FIRE DEPARTMENT OR THE 911 OPERATOR; AND

(E) PLACED A NOTICE ON THE MOTOR VEHICLE WINDSHIELD WITH THE PERSON'S CONTACT INFORMATION, THE REASON ENTRY WAS MADE, AND THE LOCATION OF THE MINOR, AND THAT THE AUTHORITIES HAVE BEEN NOTIFIED; AND

2. AFTER REMOVING SUCH MINOR, THE PERSON MUST REMAIN WITH THE MINOR IN A SAFE LOCATION REASONABLY CLOSE TO THE VEHICLE UNTIL THE LOCAL LAW

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

LBD11301-01-5

ENFORCEMENT AGENCY, FIRE DEPARTMENT OR OTHER EMERGENCY RESPONDER ARRIVES AND UPON ARRIVAL SHALL IMMEDIATELY DELIVER THE MINOR TO SUCH EMERGENCY RESPONDER.

S 2. This act shall take effect immediately.