

2015-2016 Regular Sessions

I N   S E N A T E

(PREFILED)

January 7, 2015

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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:

- 1     Section 1. The vehicle and traffic law is amended by adding a new  
2     section 389 to read as follows:  
3     S 389. IMMUNITY FROM CIVIL LIABILITY FOR EMERGENCY REMOVAL OF A CHILD  
4     FROM A MOTOR VEHICLE. 1. ANY PERSON ACTING REASONABLY AND IN GOOD FAITH  
5     SHALL BE IMMUNE FROM CIVIL LIABILITY FOR ANY DAMAGE RESULTING FROM THE  
6     EMERGENCY MEASURE OF FORCIBLY ENTERING A MOTOR VEHICLE, AS SUCH TERM IS  
7     DEFINED IN SECTION ONE HUNDRED TWENTY-FIVE OF THIS CHAPTER, FOR THE  
8     PURPOSE OF REMOVING AN UNSUPERVISED OR UNATTENDED CHILD UNDER THE AGE OF  
9     EIGHT IF THE PERSON, WITHOUT NEGLIGENCE ON HIS OR HER PART AND PRIOR TO  
10    SUCH FORCIBLE ENTRY:  
11    A. DETERMINES THE VEHICLE IS LOCKED AND THERE IS OTHERWISE NO REASON-  
12    ABLE METHOD FOR THE CHILD TO BE REMOVED FROM THE MOTOR VEHICLE; AND  
13    B. HAS A GOOD FAITH REASONABLE BELIEF BASED UPON THE CIRCUMSTANCES  
14    KNOWN TO THE PERSON AT THE TIME THAT THE EMERGENCY MEASURE OF FORCIBLE  
15    ENTRY INTO THE MOTOR VEHICLE IS NECESSARY BECAUSE THE CHILD IS IN IMMI-  
16    NENT DANGER OF SUFFERING HARM WHICH REQUIRES IMMEDIATE ACTION BY SUCH  
17    PERSON TO REMOVE THE CHILD FROM THE MOTOR VEHICLE AND SUCH PERSON USED  
18    NO MORE FORCE THAN WAS REASONABLE AND NECESSARY UNDER THE CIRCUMSTANCES  
19    TO ENTER THE VEHICLE AND REMOVE THE CHILD.  
20    2. ANY PERSON ACTING REASONABLY AND IN GOOD FAITH PURSUANT TO THIS  
21    SECTION SHALL CONTACT EITHER THE LOCAL LAW ENFORCEMENT AGENCY, THE FIRE  
22    DEPARTMENT OR THE 911 OPERATOR PRIOR TO SUCH FORCIBLE ENTRY OR AS SOON  
23    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.

LBD02197-01-5

1 LOCATION REASONABLY CLOSE TO THE VEHICLE UNTIL THE LOCAL LAW ENFORCEMENT  
2 AGENCY, FIRE DEPARTMENT OR OTHER EMERGENCY RESPONDER ARRIVES AND UPON  
3 ARRIVAL SHALL IMMEDIATELY DELIVER THE CHILD TO SUCH EMERGENCY RESPONDER.  
4 3. THIS SECTION SHALL NOT APPLY TO ATTEMPTS TO RENDER AID TO THE CHILD  
5 BEYOND WHAT IS AUTHORIZED BY THIS SECTION.  
6 S 2. This act shall take effect immediately.