STATE OF NEW YORK

1259

2017-2018 Regular Sessions

IN SENATE

January 6, 2017

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

AN ACT to amend the penal law, in relation to the offense of unauthorized use of a vehicle in third degree

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

Section 1. Section 165.05 of the penal law, as amended by chapter 413 of the laws of 1982, is amended to read as follows:

§ 165.05 Unauthorized use of a vehicle in the third degree.

A person is guilty of unauthorized use of a vehicle in the third degree when:

1. Knowing that he **or she** does not have the consent of the owner, he **or she** takes, **enters or remains in,** operates, exercises control over, rides in or otherwise uses a vehicle. A person who engages in any such conduct without the consent of the owner is presumed to know that he **or she** does not have such consent; or

2. Having custody of a vehicle pursuant to an agreement between himself **or herself** or another and the owner thereof whereby he **or she** or another is to perform for compensation a specific service for the owner involving the maintenance, repair or use of such vehicle, he **or she** intentionally uses or operates the same, without the consent of the owner, for his **or her** own purposes in a manner constituting a gross deviation from the agreed purpose; or

3. Having custody of a vehicle pursuant to an agreement with the owner thereof whereby such vehicle is to be returned to the owner at a specified time, he **or she** intentionally retains or withholds possession thereof, without the consent of the owner, for so lengthy a period beyond the specified time as to render such retention or possession a gross deviation from the agreement.

For purposes of this section "a gross deviation from the agreement" shall consist of, but not be limited to, circumstances wherein a person

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

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who having had custody of a vehicle for a period of fifteen days or less pursuant to a written agreement retains possession of such vehicle for at least seven days beyond the period specified in the agreement and continues such possession for a period of more than two days after service or refusal of attempted service of a notice in person or by certified mail at an address indicated in the agreement stating (i) the date and time at which the vehicle was to have been returned under the agreement; (ii) that the owner does not consent to the continued withholding or retaining of such vehicle and demands its return; and that continued withholding or retaining of the vehicle may constitute a class A misdemeanor punishable by a fine of up to one thousand dollars or by a sentence to a term of imprisonment for a period of up to one year or by both such fine and imprisonment.

Unauthorized use of a vehicle in the third degree is a class A misdemeanor.

§ 2. This act shall take effect on the first of November next succeeding the date upon which it shall have become a law.