

Memorandum in Support

COMMITTEE ON ANIMALS AND THE LAW

Animals #9

May 19, 2017

S. 3954

By: Senator LaValle

A. 4029

By: M. of A. Thiele

Senate Committee: Agriculture

Assembly Committee: Agriculture

Effective Date: Immediately

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.

LAWS & SECTIONS REFERRED TO: Section 353-d of the Agriculture and Markets Law.

THE COMMITTEE ON ANIMALS AND THE LAW SUPPORTS THIS LEGISLATION

This Bill would amend the Agriculture and Markets Law by repealing and replacing current Section 353-d which relates to confining companion animals in unattended motor vehicles in conditions which, due to extreme temperatures and lack of proper ventilation or other protective measures, place them in danger or serious injury or death. This Bill would continue that prohibition in current Section 353-d of leaving a companion animal in an unattended motor vehicle in conditions which, due to heat, cold or lack of ventilation, makes it reasonably possible that the companion animal could suffer injury or die. It expands the conditions in which it is illegal to leave an animal unattended in a motor vehicle to include lack of food or water, or other circumstances.

The Bill specifically would not prohibit or otherwise address the transportation of horses, cattle, pigs, sheep, poultry or other agricultural animals in motor vehicles which are designed to transport such animals for agricultural purposes.

Current law allows a police officer, peace officer or humane officer to remove an animal from a vehicle when the conditions place the animal in danger of injury or death. This legislation would also allow a person who reasonably believes that a companion animal left unattended in a motor vehicle is in immediate danger as a result of the

conditions in the motor vehicle to take “reasonable steps” to remove such companion animal from the motor vehicle in order to prevent that animal from suffering or dying. The bill provides guidance as to the “reasonable” steps a person must take in order for the immunity provided by the Bill to apply.

In order to avoid criminal responsibility and civil liability, a person taking this action must: 1) Determine that the motor vehicle is locked or there is no other reasonable manner for the animal to be removed from the vehicle; 2) Have a good faith belief that the health of the animal is in imminent danger if not removed immediately from the vehicle; 3) Have contacted law enforcement prior to forcibly entering the vehicle; 4) Remain with the animal, close to the vehicle and out of the elements, until law enforcement arrives; 5) Immediately turn over the animal to law enforcement upon their arrival; and 6) Not use force greater than necessary under the circumstances to remove the animal from the vehicle.

The Bill states that there shall be no civil cause of action for damage to the vehicle from which the animal was removed provided that the damage was caused while the person was rescuing the companion animal.

Immunity presently exists for police officers, peace officers and humane officers to take all steps reasonably necessary to remove a companion animal which appears to be in immediate danger, after making a reasonable effort to locate the owner. The Bill would extend that ability to take such action to firefighters or other emergency responders, and provide them with immunity for those actions; the bill outlines specific procedures such officer or emergency responder must take to notify the owner and to arrange for appropriate care for the animal once it has been removed from the motor vehicle.

Finally, this Bill states that a first conviction for its violation is punishable by a fine not to exceed one hundred dollars, provided the animal did not suffer serious injury or death. If the animal did suffer serious injury or death, or for any subsequent conviction, the penalty for a conviction would be a fine not to exceed five-hundred dollars and/or imprisonment not to exceed six months. The penalty under the Bill is more severe than current law, which only imposes a fine for violation of this section of law.

Presently, New York State law does allow for various police and other law enforcement officers to take steps reasonably necessary without the threat of prosecution to remove animals from dangerous conditions when they have been left unattended in a motor vehicle. However, it does not address the instances in which swift action on the part of civilians is necessary in order to rescue or protect such animals. This Bill would immunize such conduct while also placing clear limitations and restrictions upon civilians’ conduct in order to avoid criminal or civil liability. In so doing, it recognizes that animals can suffer and die horrible deaths while unattended in motor vehicles, and it attempts to provide another tool to attempt to reduce injuries to and death of animals left in such conditions.

Other states which have passed similar so-called Hot Car Good Samaritan Laws, are Florida (for vulnerable persons and domestic animals), Massachusetts (animals), Ohio (animals), Tennessee (children and animals), Wisconsin (children and animals), and California (animals). New York should join these other states in allowing ordinary citizens to take action when necessary to rescue animals locked in cars, and providing civil and criminal immunity to those persons who take immediate action to rescue animals who are in danger because they have been left unattended in vehicles, and are in imminent danger.

For the foregoing reasons, the Committee on Animals and the Law **SUPPORTS** the passage and enactment of this legislation.