

SENATE No. 2369

The Commonwealth of Massachusetts

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In the One Hundred and Eighty-Ninth General Court
(2015-2016)
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SENATE, Thursday, June 23, 2016

The committee on Rules, to whom was referred the Senate to protect health and safety of animals in vehicles (Senate, No. 878),-- reports, that the matter be placed in the Orders of the Day with an amendment substituting a new draft entitled "An Act to prevent animal suffering and death (Senate, No. 2369) (also based on Senate, Nos. 1085 and 2229).

For the committee,
Mark C. Montigny

SENATE No. 2369

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**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act to prevent animal suffering and death.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 174E of chapter 140 of the General Laws, as appearing in the 2014
2 Official Edition, is hereby amended by striking out, in lines 2 to 4, inclusive, the words “to a
3 stationary object including, but not limited to, a structure, dog house, pole or tree for longer than
4 24 consecutive hours” and inserting in place thereof the following words:- for longer than 5
5 hours in a 24 hour period or outside from 10:00 p.m. to 6:00 a.m., unless the tethering is for not
6 more than 15 minutes and the dog is not left unattended by the owner, guardian or keeper.

7 SECTION 2. Said section 174E of said chapter 140, as so appearing, is hereby further
8 amended by striking out subsection (d) and inserting in place thereof the following subsection:-

9 (d) A person shall not leave a dog outside when a weather advisory, warning or watch is
10 issued by a local, state or federal authority or when outside environmental conditions including,
11 but not limited to, extreme heat, cold, wind, rain, snow or hail pose an adverse risk to the health
12 or safety of the dog based on the dog's breed, age or physical condition, unless the tethering is
13 for not more than 15 minutes.

14 SECTION 3. Said section 174E of said chapter 140, as so appearing, is hereby further
15 amended by striking out subsection (e) and inserting in place thereof the following subsection:-

16 (e) An exception to a restriction on outdoor confinement under this section that is
17 reasonably necessary for the safety of a dog shall be made for a dog that is: (i) present in a
18 camping or recreational area pursuant to the policy of the camping or recreational area; or (ii)
19 actively engaged in conduct that is directly related to the business of shepherding or herding
20 cattle or other livestock or engaged in conduct that is directly related to the business of
21 cultivating agricultural products.

22 SECTION 4. Said section 174E of said chapter 140, as so appearing, is hereby further
23 amended by striking out, in line 87, the figure “\$100” and inserting in place thereof the following
24 figure:- \$200.

25 SECTION 5. Said section 174E of said chapter 140, as so appearing, is hereby further
26 amended by striking out, in line 89, the figure “\$300” and inserting in place thereof the following
27 figure:- \$500.

28 SECTION 6. Said section 174E of said chapter 140, as so appearing, is hereby further
29 amended by inserting after the word “owner’s”, in line 90, the following word:- , keeper’s.

30 SECTION 7. Said section 174E of said chapter 140, as so appearing, is hereby further
31 amended by adding the following subsection:-

32 (h) A special police officer appointed by the colonel of the state police at the request of
33 the Massachusetts Society for the Prevention of Cruelty to Animals and the Animal Rescue
34 League of Boston under section 57 of chapter 22C may enforce this section following the same

35 procedures relating to notice and court procedure in section 21D of chapter 40 for the non-
36 criminal disposition of a violation.

37 SECTION 8. Said chapter 140 of the General Laws is hereby amended by inserting after
38 section 174E the following section:-

39 Section 174F. (a) A person shall not confine an animal in a motor vehicle in a manner
40 that could reasonably be expected to threaten the health of the animal due to exposure to extreme
41 heat or cold.

42 (b) After making reasonable efforts to locate the motor vehicle's owner, an animal
43 control officer, law enforcement officer or fire fighter may enter a motor vehicle by any
44 reasonable means to protect the health and safety of an animal. A law enforcement officer,
45 animal control officer, as defined in section 136A, or fire fighter may enter the motor vehicle for
46 the sole purpose of assisting the animal and may not search the vehicle or seize items found in
47 the vehicle unless otherwise permitted by law.

48 (c) An animal control officer, law enforcement officer or fire fighter who removes or
49 otherwise retrieves an animal under this section shall leave written notice in a secure and
50 conspicuous location on or in the motor vehicle bearing the officer's or fire fighter's name, title
51 and the address of the location where the animal may be retrieved. The owner may retrieve the
52 animal only after payment of all charges that have accrued for the maintenance, care, medical
53 treatment and impoundment of the animal.

54 (d) A law enforcement officer, animal control officer or fire fighter who removes or
55 otherwise retrieves an animal from a motor vehicle under this subsection (b) is immune from
56 criminal or civil liability that might otherwise result from the removal.

57 (e) After making reasonable efforts to locate the motor vehicle's owner, a person not
58 authorized under subsection (b) may enter a motor vehicle using reasonable means to protect the
59 health and safety of an animal; provided, however, that the person: (i) determines that there are
60 no reasonable means of egress for the animal from the vehicle; (ii) has a good faith and
61 reasonable belief, based upon known circumstances, that entry into to the vehicle is reasonably
62 necessary to prevent imminent danger or harm to the animal; (iii) notifies law enforcement or
63 calls 911 before entering the vehicle; (iv) shall not use more force than reasonably necessary to
64 enter the motor vehicle and remove the animal; and (v) remains with the animal in a safe location
65 in reasonable proximity to the vehicle until law enforcement or another first responder arrives.

66 (f) A person who removes an animal from a motor vehicle pursuant to subsection (e) is
67 immune from criminal or civil liability that might otherwise result from the removal.

68 (g) A violation of subsection (a) shall be punished by a fine of not more than \$150 for a
69 first offense, by a fine of not more than \$300 for a second offense and by a fine of not more than
70 \$500 for a third or subsequent offense.

71 (h) Nothing in this section shall preclude prosecution under section 77 of chapter 272.