

LEGISLATIVE COMMITTEE MINUTES

SB608

Bill as Introduced

SB 608 - AS INTRODUCED

2020 SESSION

20-3027
08/01

SENATE BILL **608**

AN ACT relative to animals in motor vehicles.

SPONSORS: Sen. Sherman, Dist 24; Sen. Watters, Dist 4; Sen. Cavanaugh, Dist 16; Rep. Le, Rock. 31; Rep. Leishman, Hills. 24; Rep. K. Murray, Rock. 24; Rep. Grote, Rock. 24

COMMITTEE: Judiciary

ANALYSIS

This bill allows a person to rescue a confined animal endangered by extreme temperatures under certain circumstances.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty

AN ACT relative to animals in motor vehicles.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Animals in Motor Vehicles. Amend RSA 644:8-aa, IV to read as follows:

2 IV. *Any person who is not a law enforcement officer or agent of a licensed humane*
3 *organization may take action necessary to rescue a confined animal endangered by*
4 *extreme temperatures if:*

5 (a) *Law enforcement has been contacted;*

6 (b) *A witness is present; and*

7 (c) *The individual reasonably believes at the time that assistance will not arrive*
8 *in time to prevent the serious injury or death of the confined animal.*

9 V. No officer or agent taking action under paragraph III *or IV* shall be liable for damage
10 reasonably necessary to rescue the confined animal.

11 2 Effective Date. This act shall take effect 60 days after its passage.

Amendments

Sen. Sherman, Dist 24
February 28, 2020
2020-0935s
08/04

Amendment to SB 608

1 Amend the bill by replacing section 1 with the following:
2

3 1 Animals in Motor Vehicles. Amend RSA 644:8-aa, III and IV to read as follows:

4 III.(a) Any law enforcement officer or agent of a licensed humane organization may take
5 action necessary to rescue a confined animal endangered by extreme temperatures, and to remove
6 the threat of further serious harm.

7 (b) *Any individual may take action to rescue a confined animal endangered by*
8 *extreme temperatures, provided that such actions are expressly authorized by a law*
9 *enforcement officer and witnessed by another individual.*

10 IV. No officer, *authorized individual*, or agent taking action under paragraph III shall be
11 liable for damage reasonably necessary to rescue the confined animal.

UNAPPROVED

Committee Minutes

SENATE CALENDAR NOTICE

Judiciary

Sen Martha Hennessey, Chair
Sen Shannon Chandley, Vice Chair
Sen Melanie Levesque, Member
Sen Sharon Carson, Member
Sen Harold French, Member

Date: February 13, 2020

HEARINGS

	Thursday	02/20/2020
	(Day)	(Date)
Judiciary	State House 100	10:00 a.m.
(Name of Committee)	(Place)	(Time)
10:00 a.m. SB 508	extending the statute of limitations for civil actions based on a sexual assault.	
10:20 a.m. SB 525	relative to probate administration, distribution upon intestacy, and powers of attorney.	
10:40 a.m. SB 608	relative to animals in motor vehicles.	
11:00 a.m. SB 679-FN	relative to policies on sexual assault in higher education institutions.	

EXECUTIVE SESSION MAY FOLLOW

Sponsors:

SB 508

Sen. Fuller Clark
Sen. Bradley
Rep. Altschiller

Sen. Kahn
Sen. Feltes
Rep. K. Murray

Sen. Chandley
Sen. Soucy
Rep. Cushing

Sen. Reagan
Rep. Gordon
Rep. Abbas

SB 525

Sen. Feltes

SB 608

Sen. Sherman
Rep. Leishman

Sen. Watters
Rep. K. Murray

Sen. Cavanaugh
Rep. Grote

Rep. Le

SB 679-FN

Sen. Hennessey
Sen. Birdsall
Sen. Cavanaugh
Sen. Bradley
Rep. Muscatel

Sen. Feltes
Sen. Fuller Clark
Sen. Morgan
Sen. Sherman
Rep. Alexander Jr.

Sen. Levesque
Sen. Chandley
Sen. Carson
Sen. Soucy
Rep. Heath

Sen. Rosenwald
Sen. Watters
Sen. Reagan
Rep. Kenney
Rep. Abbas

Jennifer Horgan 271-2609

Martha S. Hennessey
Chairman

Senate Judiciary Committee
Jennifer Horgan 271-2609

SB 608, relative to animals in motor vehicles.

Hearing Date: February 20, 2020

Time Opened: 12:04 p.m.

Time Closed: 12:26 p.m.

Members of the Committee Present: Senators Hennessey, Chandley, Levesque, Carson and French

Members of the Committee Absent : None

Bill Analysis: This bill allows a person to rescue a confined animal endangered by extreme temperatures under certain circumstances.

Sponsors:

Sen. Sherman

Sen. Watters

Sen. Cavanaugh

Rep. Le

Rep. Leishman

Rep. K. Murray

Rep. Grote

Who supports the bill: Senator Sherman; Senator Cavanaugh; Senator Watters; Kim Sherman; Jennifer Hosue; Heather Faria, NH Federation of Humane Organizations; Olivia Hammer; Ron Rene, Mychal Judge Circle Manch

Who opposes the bill: Angela Ferrari; Marissa Chase, NHAJ; Leif Becker; Nancy Holmes

Summary of testimony presented in support:

Senator Sherman and Olivia Hammer (provided written testimony)

- His constituent Olivia Hammer approached him to bring this forward due to her concern about not being able to help animals.
- The bill does not require breaking a window, it may just mean gapping a window or dealing with some other form on confinement.
- It strives to make sure reasonable steps have been taken before any action is undertaken by the person who is covered by this bill.
- Law enforcement must be contacted, a witness must be present, and the individual must reasonably believes at the time that help will not arrive in time.
- The bill only provides immunity if all of those conditions are met.
- He and Olivia have met with the NH Association for Justice and American Kennel Club. Hopefully will be meeting with the President of NH Dogs.
- The goal is to put animals first, but also don't want to endanger anyone or any animals.

- Requesting time to work on an amendment for this.
- Ms. Hammer explained her motivation for taking good care of animals and how this became the topic for her advocacy letter project in her American Studies class.
- Wrote the letter to Senator Sherman asking him to revive HB1394.
- Often people hesitate to help an animal that may be in a crisis in a car because they fear retribution from the dog owner in the form of a lawsuit.
- Dogs in cars is one of the most preventable deaths to an animal in the country.
- Cars in parking lots absorb intense heat from the sun.
- According to the American Veterinary Medical Association (AVMA), hundreds of pets die from heat exhaustion per year because they are left in parked vehicles.
- AVMA states that a car can go up 20 degrees F in as little as ten minutes.
- Senator Carson asked if he had reached out to the Department of Safety or the Attorney General about this.
 - Senator Sherman responded that he has not spoken to the Department of Safety but has spoken with the Attorney General's Office. Does not think the Attorney General is taking a position. Would be happy to reach out though.
- Senator Carson asked if he has spoken with local police departments.
 - Senator Sherman responded that he did not.
 - Ms. Hammer stated that in these situations she would wait 30 minutes plus and then call the police. The police would come and say the animal was not in distress and then leave.
- Senator Levesque asked what other types of actions one might take besides smashing a window.
 - Senator Sherman responded that some cars are left unlocked, so you could roll down the window. If it is the cab of a truck you could vent the cab window. If a car is locked and the windows are rolled up tight you would have very few options.

Summary of testimony presented in opposition:

Nancy Holmes (provided written testimony)

- Understands the kind intent of this bill.
- This would only work in the best-case scenario, but in real life most scenarios don't turn out to be best-case.
- Who is liable if the animal bites the person trying to rescue them or a bystander?
- What if an animal bolts and runs into traffic?
- What if a person is taking a purse from a car but claims they were only trying to rescue the dog?
- Thinks the general public is not going to be aware of all of the conditions required by this bill.
- Wonders how people will react and how situations will escalate if a person came out of a store and someone was breaking into their car.
- Her husband frequently leaves the dogs in the car with the windows up and the AC on.

- In the House hearing on a similar bill a dispatcher testified that 9 times out of 10 when police arrived at a report of an animal in trouble they would find that the person who had called it in had lied about the windows being open, the condition of the animal, and whether or not air conditioning was running.
- Officers have training on how to get these animals out of cars.
- There are too many things that could go wrong with this bill.
- You can put a blanket over the car's windows to change the temperature of the car.
- There are other things you can do besides breaking into a vehicle.
- Does not think the general public would know how to handle these dogs.

Leif Becker and Marissa Chase (NH Association of Justice) (provided written testimony)

- Has several concerns with the bill.
- While all immunity bills generally have good intent, the unintended consequences are what we seek to avoid.
- This bill seeks to amend RSA 644:8-aa which applies to domesticated animals, livestock, and wild animals in captivity.
- This bill would allow an individual to free an animal they reasonably believe to be in danger, whether it be a dog in a car or a bear at Clark's Trading Post.
- If a dog bites a person, someone should be held accountable for negligence.
- People injured through the negligence of others should be compensated for those injuries.
- If someone were to break a window to free a dog, no attorney is going to bring a suit for the cost of a broken window.
- The filing fee alone comes close to the cost of that broken window.
- If someone were to bring that case pro se, they would potentially be opening themselves up to animal abuse/neglect charges.
- Could find no cases in NH where a suit has been brought for property damage in the freeing of an animal.
- If such a case was brought against an individual there are a lot of checks and balances in the legal system that would protect that individual.
- The sudden emergency doctrine shields individuals from liability when they are put in an emergency situation where they have to act through no fault of their own.
- Jury instructions reads much to the same.
- Met with Senator Sherman and his constituent and would be happy to continue conversations with them.
- Senator Chandley asked how one would interpret 'reasonably believes at the time that assistance will not arrive in time.'
 - Mr. Becker answered that there would have to be a showing of facts presented that would substantiate that person's reasonable belief. For example, the dispatcher saying they are not going to be able to respond for an hour or the physical condition of the animal like shallow breathing.

Speakers

SPEAKING

Senate Judiciary Committee SIGN-IN SHEET

Date: 02/20/2020 Time: 10:40 a.m.

SB 608 AN ACT relative to animals in motor vehicles.

Name/Representing (please print neatly)

	Support	Oppose	Speaking?	
John Smith	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input checked="" type="checkbox"/>
Nancy Holmes	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Speaking?	<input checked="" type="checkbox"/>
Leif Becker + Marissa Chace	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Speaking?	<input checked="" type="checkbox"/>
John Smith	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input checked="" type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input checked="" type="checkbox"/>
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Testimony

COUGHLIN, RAINBOTH, MURPHY & LOWN

ATTORNEYS AT LAW • PROFESSIONAL ASSOCIATION



February 20, 2020

TIMOTHY C. COUGHLIN*†
MICHAEL P. RAINBOTH*†
KENNETH D. MURPHY**
BRADLEY M. LOWN†
JAMES E. COUGHENOUR, JR.*†
LEIF A. BECKER*†

New Hampshire Senate Judiciary Committee

Re: Opposition to SB 608

Dear Senators:

I write to you today to voice opposition to SB 608 relative to animals in motor vehicles on several grounds.

Firstly, I have seen from legal practice the unintended and unforeseen consequences that immunity bills have on individuals that are injured, through the negligence of others. While all immunity bills start with good intentions, as is clearly the case here, there are always unintended consequences that come with such a bill. I have concerns about the language of SB 608 which seeks to amend RSA 644:8-aa, IV. While SB 608 is titled and clearly intended to extend to animals who have been left in motor vehicles in extreme heat, RSA 644:8-aa is applicable to all enclosed spaces. Additionally, RSA 644:8-aa, also defines animals to include domestic animals, household pet, or wild animal held in captivity. Therefore, if SB 608 were to pass, any individual with a reasonable concern for an animal premised on temperatures would have no liability for releasing that animal from an enclosure whether it be livestock or even dangerous zoo animals held in captivity. One could certainly imagine the potential dangers to property and individuals under such circumstances. If SB 608 were to pass that individual could not be held accountable for the injuries caused by their behavior.

Perhaps a more likely scenario could be where an individual, comes upon a confined dog, unaware of its dangerous disposition, and frees the dog out of concern for the dog, only for the dog to then bite or attack others. Again, under SB 608, that individual could not be held accountable. This is the danger of the immunity of SB 608, and all immunity statutes; there are always unforeseen circumstances where individuals have acted negligently and should be held liable but are immune.

My second point of opposition towards SB 608 is that this bill is simply unnecessary from a legal perspective. While the bill clearly has good intent, there have simply not been lawsuits filed by pet owners when a Good Samaritan breaks their car window to rescue a confined animal. My colleagues at New Hampshire Association of Justice researched this issue and could not find a single lawsuit filed in the State of New Hampshire given this fact pattern. I believe this is for multiple reasons. Lawsuits are expensive, and I can tell you that a lawyer simply would not take a case with the cost of a car window in controversy. The cost of filing a small claims case in New Hampshire is \$90, so pursuing litigation, even pro se, simply is unreasonable. Additionally, an individual who has had their car window broken likely would not want to pursue such a claim as they would run the risk of highlighting their own animal neglect, potentially opening themselves up to criminal prosecution.

As SB 608 is not necessary to protect the interests of the Good Samaritans, and brings with it unintended consequences, I urge this committee to vote SB 608 Inexpedient to Legislate.

Very truly yours,

A handwritten signature in black ink, appearing to read "Leif A. Becker". The signature is written in a cursive style with a large, stylized initial "L".

Leif A. Becker

My name is Nancy Holmes and I am here today from New Boston, NH to speak against bill SB608.

I completely understand the kind intent behind the desire to make it a law that all people can rescue animals from an overly warm or cold vehicle. In the best case scenario this would result only in the saving of animal lives. Unfortunately, in real life, most scenarios don't turn out to be best case.

A lot of things that could easily happen are not being considered here.

Who is liable if the 'rescuer' or a bystander gets bitten or otherwise damaged by the animal?

Who is liable if the animal is stolen, runs away, is lost or, in an escape attempt, causes an accident, or gets killed or injured running into traffic?

What is to prevent a person claiming they are rescuing an animal when in fact they are stealing the pet or items in the car instead and the animal inside is simply an excuse to do so without repercussions?

How will this impact police enforcement if the temperature evidence is destroyed before the police get there or if the 'rescuer' is really a thief?

What if the break in is vandalism with the excuse of rescue to avoid prosecution?

While I personally would view the condition of a malamute sitting in a hot or cold car completely differently from a short haired Chihuahua the law would treat them both the same.

Anyone can claim they have called the police to satisfy passersby they are not doing any malicious acts.

While you and I can see the details of the procedure that is supposed to happen in this bill, it is most likely that what the general public is going to 'hear' is that it's OK now to break into a vehicle if an animal is inside, and appears to them to be in danger.

I believe this bill, for all its kind intent, opens up too big of a can of worms to pass. A person might not be liable for damage to the vehicle when performing the defined rescue but should not be given a pass for other consequences of taking that action such as theft, getting bitten or an animal escaping and getting killed or injured, causing an accident and so on.

Perhaps including that the person doing the rescue must have the means and ability to restrain the animal and keep it from escaping and takes on the liability of the animal harming them or itself instead of being absolved of all liability.

Another serious issue to consider is what would the reaction of the car owner be should they return to find someone not a police officer breaking into their car? What if either person was exercising their open carry rights?

Given the high potential for problems, I ask you to ITL this bill.

Sincerely,

Nancy E. Holmes, New Boston, NH



February 19, 2020

Madame Chair Martha Hennessey and Members of the Senate Judiciary Committee –

I am writing on behalf of Dog Owners of the Granite State (D.O.G.S.) to thank you for your consideration of **SB 608**, relative to animals in motor vehicles. On behalf of our membership of responsible local pet owners and breeders, D.O.G.S. respectfully **opposes** this bill.

D.O.G.S. is an American Kennel Club affiliated non-profit organization founded in 1991 to represent the interests of all pet owners in New Hampshire. Our membership includes a vibrant and active community of specialty breed clubs, all breed kennel clubs, dog and cat breeders, veterinarians, mushers, hunters, and livestock guardian dog owners.

SB 608 will make it legal for the public to break into a vehicle under the presumption that an animal inside is at risk. This is very concerning due to many unintended consequences discussed below and we also believe current statute sufficiently addresses any animal cruelty concerns in these situations.

In reviewing the 2016-2017 NH *Report to the Governor - Animal Cruelty Related Criminal Activity* there were roughly 12 reports of dogs in cars. Zero of those reports resulted in a dog deemed in distress. There has been a lot of media on keeping dogs safe in cars, so we believe that it is well known how important it is to be cautious with animals in cars in general.

644:8-aa IV (c) proposes that if “the individual reasonably believes” that serious injury or death won’t be prevented if they don’t take “necessary action” to rescue the animal. This is extremely vague and the mere sight of an animal in a car could lead someone to “reasonably believe” they need to intervene. People naturally overreact, especially when animals are involved, and have a desire to be a hero. This bill will only promote vigilante *heroes*.

What recourse do owners have after someone has intervened, if the animal was truly fine? **644:8-aa V** says that the person who has taken action will not be liable for damages. Is this true if they were at fault and *intervened* when intervention was unwarranted?

Current law, **644:8** already has a number of statutes which can be used if someone leaves an animal in their vehicle in a manner that could be considered cruel, putting the animal in danger. See **II-a, III-a, III-d, III-h**. **644:8 I** through **III** included in full at the end of this letter.

Unintended Consequences

- Having someone break into a vehicle may actually put them at risk of being injured by the animal. Dogs are protective by nature and many feel their owner’s vehicle is their space that may require protecting. This could lead to a well-meaning citizen getting bit, etc. Will this law be amended to prevent charges against the owner if the dog bites the person breaking into the vehicle? An owner choosing to leave their dog in their vehicle may actually be in the best interest of the dog.
- Once the vehicle is broken into to *rescue* the animal, all evidence that the animal was in an unsafe environment (temperature inside the vehicle) will be destroyed. Once doors or windows are opened, the temperature could decrease significantly leaving no proof for an officer to collect evidence that the dog was truly in an unsafe environment.

- What if the animal escapes and becomes lost? Now not only has the evidence of the state of the vehicle been destroyed, but the animal is now at large and its physical condition cannot be assessed.

Again, thank you for your consideration of SB 608. We hope that you will vote this bill **Inexpedient to Legislate** to avoid implementing legislation that could actually put dogs at risk.

Sincerely,



Angela Ferrari, President,
Dog Owners of the Granite State

Section 644:8

644:8 Cruelty to Animals. –

- I. In this section, "cruelty" shall include, but not be limited to, acts or omissions injurious or detrimental to the health, safety or welfare of any animal, including the abandoning of any animal without proper provision for its care, sustenance, protection or shelter.
- II. In this section, "animal" means a domestic animal, a household pet or a wild animal in captivity.
 - II-a. In this section, "shelter" or "necessary shelter" for dogs shall mean any natural or artificial area which provides **protection from the direct sunlight and adequate air circulation when that sunlight is likely to cause heat exhaustion of a dog tied or caged outside**. Shelter from the weather shall allow the dog to remain clean and dry. Shelter shall be structurally sound and have an area within to afford the dog the ability to stand up, turn around and lie down, and be of proportionate size as to allow the natural body heat of the dog to be retained.
- III. A person is guilty of a misdemeanor for a first offense, and of a class B felony for a second or subsequent offense, who:
 - (a) **Without lawful authority negligently deprives or causes to be deprived any animal in his possession or custody necessary care, sustenance or shelter;**
 - (b) Negligently beats, cruelly whips, tortures, mutilates or in any other manner mistreats or causes to be mistreated any animal;
 - (c) Negligently overdrives, overworks, drives when overloaded, or otherwise abuses or misuses any animal intended for or used for labor;
 - (d) **Negligently transports any animal in his possession or custody in a manner injurious to the health, safety or physical well-being of such animal;**
 - (e) Negligently abandons any animal previously in his or her possession or custody by causing such animal to be left without supervision or adequate provision for its care, sustenance, or shelter;
 - (f) Has in his or her possession an equine colt that is less than 90 days old that is not being nursed by its dam, unless the colt was born in this state, and its dam has died within this state before the colt became 90 days old;
 - (g) Sells an equine colt that is less than 90 days old that is not being nursed by its dam; or
 - (h) **Otherwise negligently permits or causes any animal in his or her possession or custody to be subjected to cruelty, inhumane treatment, or unnecessary suffering of any kind.**
- III-a. A person is guilty of a class B felony who purposely beats, cruelly whips, tortures, or mutilates any animal or causes any animal to be beaten, cruelly whipped, tortured, or mutilated.

Hello, my name is Olivia Hammer. I am a sixteen-year-old student at Portsmouth High School, and I live in New Castle, NH. I have always been passionate about animals and their safety. I care because my aunt is a veterinarian, and I often hear her talk about taking good care of animals at family events. She always tells us about the possible fatal consequences of leaving dogs, or any animal in a hot vehicle, particularly in the summer.

My passion for this pressing issue became the topic I chose to use when I had an Advocacy Letter Project in my American Studies class. This project required research on a particular local, state, national, or global problem that I feel needs to change. I wrote a letter to Senator Sherman asking him to revive a former bill on my behalf, HB 1394, and I am delighted that he responded. I am advocating for stronger support for citizens who adhere to the required steps that are taken in their attempt to help an animal that may be in a crisis inside a car. Often, people hesitate to help the animal, because they fear retribution from the dog owner in the form of a lawsuit. This is one of the most preventable deaths to animals in the country, and people following the law, need to have more support.

Cars in parking lots absorb intense heat from the sun and become hot to touch on the outside, and stifling hot on the inside. According to the American Veterinary Medical Association, AVMA, hundreds of pets die from heat exhaustion per year because they are left in parked vehicles. AVMA also says that your car can go up 20° F in as little as ten minutes. A study performed by the Louisiana Office of Public Health was put in effect to research further the possible temperatures a car can reach even on non-sunny days. Small amounts of airflow may not be enough, and the dog could begin to have seizures, collapse, or become stressed. I know that people want to be with their animals always, and bring them along to do errands.

I am more than happy to work with Senator Sherman and the committee to create an amendment that provides precise context to this bill. Thank you for listening, this means so much.

Committee Report

General Court of New Hampshire - Bill Status System

Docket of SB608

Docket Abbreviations

Bill Title: relative to animals in motor vehicles.*Official Docket of SB608.:*

Date	Body	Description
1/6/2020	S	To Be Introduced 01/08/2020 and Referred to Judiciary; SJ 2
2/13/2020	S	Hearing: 02/20/2020, Room 100, SH, 10:40 am; SC 7
6/16/2020	S	Vacated from Committee and Laid on Table, MA, VV; 06/16/2020 SJ 8

NH House

NH Senate

Other Referrals

Senate Inventory Checklist for Archives

Bill Number: SB608

Senate Committee: Judiciary

Please include all documents in the order listed below and indicate the documents which have been included with an "X" beside

Final docket found on Bill Status

Bill Hearing Documents: {Legislative Aides}

Bill version as it came to the committee

All Calendar Notices

Hearing Sign-up sheet(s)

Prepared testimony, presentations, & other submissions handed in at the public hearing

Hearing Report

Revised/Amended Fiscal Notes provided by the Senate Clerk's Office

Committee Action Documents: {Legislative Aides}

All amendments considered in committee (including those not adopted):

- amendment # 0935s - amendment # _____

- amendment # _____ - amendment # _____

Executive Session Sheet

Committee Report

Floor Action Documents: {Clerk's Office}

All floor amendments considered by the body during session (only if they are offered to the senate):

- amendment # _____ - amendment # _____

- amendment # _____ - amendment # _____

Post Floor Action: (if applicable) {Clerk's Office}

Committee of Conference Report (if signed off by all members. Include any new language proposed by the committee of conference):

Enrolled Bill Amendment(s)

Governor's Veto Message

All available versions of the bill: {Clerk's Office}

as amended by the senate as amended by the house

final version

Completed Committee Report File Delivered to the Senate Clerk's Office By:

Jennifer Horgan
Committee Aide

7/23/20
Date

Senate Clerk's Office JM