

**Erie County Legislature
Public Safety Committee
Amendment to INTRO 10-3 (2017)
June 1, 2017**

Add the following as the final WHEREAS Clause:

WHEREAS, New York State Senators Timothy Kennedy and Chris Jacobs have introduced legislation, S6504, in the State Senate to address this very important public safety and quality of life issue.

Delete the second RESOLVE Clause in its entirety and replace with the following:

RESOLVED, that this Honorable Body hereby goes on record in support of NYS Senate Bill S6504, and that certified copies of this resolution be sent to Governor Cuomo and the members of the Western New York Delegation to the New York State Senate and Assembly.

STATE OF NEW YORK

6504

2017-2018 Regular Sessions

IN SENATE

May 26, 2017

Introduced by Sens. KENNEDY, JACOBS -- 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 burglary in the second and
third degrees

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

Section 1. Section 140.20 of the penal law is amended to read as
follows:

S 140.20 Burglary in the third degree.

A person is guilty of burglary in the third degree when he knowingly
enters or remains unlawfully in a building OR VEHICLE with intent to
commit a crime therein.

Burglary in the third degree is a class D felony.

S 2. Section 140.25 of the penal law, paragraph (c) of subdivision 1
as added by chapter 791 of the laws of 1967, paragraph (d) of subdivi-
sion 1 as amended by chapter 374 of the laws of 1973 and subdivision 2
as amended by chapter 361 of the laws of 1981, is amended to read as
follows:

S 140.25 Burglary in the second degree.

A person is guilty of burglary in the second degree when he knowingly
enters or remains unlawfully in a building OR VEHICLE with intent to
commit a crime therein, and when:

1. In effecting entry or while in the building OR VEHICLE, or in imme-
diate flight therefrom, he or another participant in the crime:

(a) Is armed with explosives or a deadly weapon; or

(b) Causes physical injury to any person who is not a participant in
the crime; or

(c) Uses or threatens the immediate use of a dangerous instrument; or

(d) Displays what appears to be a pistol, revolver, rifle, shotgun,
machine gun or other firearm; or

2. The building is a dwelling.

Burglary in the second degree is a class C felony.

S 3. This act shall take effect immediately.

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

LBD11944-01-7

**A RESOLUTION TO BE SUBMITTED
BY LEGISLATOR SAVAGE**

RE: Call on New York State to Pass Legislation Allowing for “Car Pops” to be Prosecuted as Felony Burglaries

WHEREAS, Car break-ins, commonly referred to as “car pops” are a major quality of life issue throughout Erie County; and

WHEREAS, “Car Pops” not only result in theft of property and often expensive vehicle damage, but also are major violations of privacy which detrimentally impact property values, commercial business, and the public’s sense of feeling safe in their community; and

WHEREAS, According to the Erie County District Attorney’s Office, there were 3801 reported “car pops” in the City of Buffalo alone over the last two years; and

WHEREAS, Despite this high number of reported incidents, only 147 arrests were made, in large part due to the lack of a felony charge available to law enforcement; and

WHEREAS, According to the Erie County District Attorney’s Office, thirteen individuals constituted 27% of those charged with “car pops” in the City of Buffalo over the last two years, each with multiple arrests. In some cases, the same offender was charged 8 separate times as the result of a “car pop”; and

WHEREAS, Due to the lack of a felony charge available, there are no real consequences for these very serious quality of life crimes despite the hard work of law enforcement, prosecutors, and the courts, often resulting in a “revolving door” for offenders through the criminal justice system; and

WHEREAS, New York State law limits prosecutions for burglary to dwellings or buildings, thus there is no felony burglary charge available in instances where one’s automobile is broken into, leaving lesser charges such as misdemeanor larceny as the only available recourse; and

WHEREAS, Other states such as Florida recognize the serious nature of “car pop” crimes and the tremendous impact they have on the quality of life in communities and have expanded its definition of burglary to also include motor vehicles as “conveyances” for these purposes, which allows law enforcement and prosecutors to charge offenders with a felony; and

WHEREAS, New York State should adopt similar legislation in the interest of protecting the quality of life of its residents.

NOW, THEREFORE, BE IT

RESOLVED, that this Honorable Body hereby calls on the New York State Legislature to adopt legislation, similar to the State of Florida, to include motor vehicles within its definition of burglary to provide law enforcement with the ability to charge individuals who break into cars (“car poppers”) with a felony to preserve the quality of life of our residents; and be it further

RESOLVED, that certified copies of this resolution be sent to Governor Cuomo and the members of the Western New York Delegation to the New York State Senate and Assembly.

FISCAL IMPACT: None for resolution.