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AMENDED IN ASSEMBLY APRIL 6, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 797

Introduced by Assembly Members Steinorth and Santiago

(Principal coauthor: Assembly Member Quirk)

(Principal coauthor: Senator Glazer)

(Coauthors: Assembly Members Brown, Campos, Chang, Chávez, Chiu, Cristina Garcia, Eduardo Garcia, Lackey, Maienschein, McCarty, and Waldron)

(Coauthors: Senators Anderson and Pavley)

February 26, 2015

An act to add Section 43.100 to the Civil Code, ~~relating to civil liability, and declaring the urgency thereof, to take effect immediately. and to amend Section 597.7 of the Penal Code, relating to trespass.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 797, as amended, Steinorth. ~~Immunity from civil liability: damaging a motor vehicle: rescue or provision of care for minor or animal. Motor vehicles: rescue or provision of care for animal: civil and criminal liability.~~

Existing law authorizes a peace officer, humane officer, or animal control officer to take all steps reasonably necessary to remove an animal from a motor vehicle because the animal's safety appears to be in immediate danger of specified harm. Existing law requires those

persons who remove an animal from a vehicle to take the animal to an animal shelter or other place of safekeeping or, if deemed necessary, to a veterinary hospital for treatment, and to leave a notice in the vehicle that notifies the owner of, among other things, the location where the animal may be claimed. Existing law authorizes the owner to claim the animal only after paying all charges that have accrued for the maintenance, care, medical treatment, or impoundment of the animal.

This bill would expand the authorization and requirements applicable to a peace officer, humane officer, or animal control officer described above to include a fire fighter or other emergency responder. The bill would additionally provide that a person may be required to pay for charges that have accrued for the maintenance, care, medical treatment, or impoundment of the animal removed from the vehicle. The bill would require a person who removes an animal from a vehicle under the circumstances described above to immediately turn the animal over to a representative from law enforcement, animal control, or other emergency responder who responds to the scene and would exempt the person from criminal liability for removal of the animal from a vehicle if the person satisfies specified conditions. The bill would exempt a person from civil liability for property damage or trespass to a motor vehicle if the property damage or trespass occurred while the person was rescuing an animal pursuant to these provisions.

~~(1) Existing law limits the civil liability of a person who in good faith, and not for compensation, renders emergency medical or nonmedical care at the scene of an emergency, as specified.~~

~~This bill would prohibit any civil liability or cause of action against a person for damage to a motor vehicle, if the damage was caused while the person was rescuing or providing care to a minor who, or animal that, was located inside the motor vehicle and the person had taken specific steps, including, among others, determining the motor vehicle was locked or there was no reasonable method for the minor or animal to exit the motor vehicle without assistance, and to the extent practicable, contacted a law enforcement agency, fire department, or the emergency 911 telephone number before damaging the motor vehicle.~~

~~(2) This bill would declare that it is to take effect immediately as an urgency statute.~~

Vote: $\frac{2}{3}$ -majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 43.100 is added to the Civil Code, to read:*

2 43.100. (a) *There shall not be any civil liability on the part*
3 *of, and no cause of action shall accrue against, a person, including*
4 *a peace officer, fire fighter, humane officer, animal control officer,*
5 *or other emergency responder, for property damage or trespass*
6 *to a motor vehicle, if the damage was caused while the person was*
7 *rescuing an animal pursuant to subdivision (b) or (d) of Section*
8 *597.7 of the Penal Code.*

9 (b) *The immunity from civil liability for property damage or*
10 *trespass to a motor vehicle established by this section does not*
11 *affect a person's civil liability or immunity from civil liability for*
12 *rendering aid to an animal pursuant to Section 597.7 of the Penal*
13 *Code.*

14 *SEC. 2. Section 597.7 of the Penal Code is amended to read:*

15 597.7. (a) ~~No~~ *A person shall not leave or confine an animal in*
16 *any unattended motor vehicle under conditions that endanger the*
17 *health or well-being of an animal due to heat, cold, lack of adequate*
18 *ventilation, or lack of food or water, or other circumstances that*
19 *could reasonably be expected to cause suffering, disability, or*
20 *death to the animal.*

21 (b) (1) *This section does not prevent a person from taking all*
22 *steps that are reasonably necessary to remove an animal from a*
23 *motor vehicle if the animal's safety appears to be in immediate*
24 *danger from heat, cold, lack of adequate ventilation, lack of food*
25 *or water, or other circumstances that could reasonably be expected*
26 *to cause suffering, disability, or death to the animal.*

27 (2) *If a person described in paragraph (1) removes the animal*
28 *from a vehicle he or she shall immediately turn the animal over*
29 *to a representative from law enforcement, animal control, or*
30 *another emergency responder who responds to the scene.*

31 (3) (A) *A person acting under this subdivision, and in*
32 *accordance with subparagraph (B), is not criminally liable for*
33 *actions taken reasonably and in good faith in acting in accordance*
34 *with this subdivision.*

35 (B) *Subparagraph (A) applies if the person does all of the*
36 *following:*

37 (1) *Determines the vehicle is locked or there is otherwise no*
38 *reasonable manner for the animal to be removed from the vehicle.*

1 (2) *Has a good faith belief that forcible entry into the vehicle*
2 *is necessary because the animal is in imminent danger of suffering*
3 *harm if it is not immediately removed from the vehicle, and, based*
4 *upon the circumstances known to the person at the time, the belief*
5 *is a reasonable one.*

6 (3) *Has contacted a local law enforcement agency, the fire*
7 *department, animal control, or the “911” emergency service prior*
8 *to forcibly entering the vehicle.*

9 (4) *Remains with the animal in a safe location, out of the*
10 *elements but reasonably close to the vehicle, until a peace officer,*
11 *humane officer, animal control officer, or another emergency*
12 *responder arrives.*

13 (5) *Used no more force to enter the vehicle and remove the*
14 *animal from the vehicle than was necessary under the*
15 *circumstances.*

16 (b)

17 (c) Unless the animal suffers great bodily injury, a first
18 conviction for violation of this section is punishable by a fine not
19 exceeding one hundred dollars (\$100) per animal. If the animal
20 suffers great bodily injury, a violation of this section is punishable
21 by a fine not exceeding five hundred dollars (\$500), imprisonment
22 in a county jail not exceeding six months, or by both a fine and
23 imprisonment. Any subsequent violation of this section, regardless
24 of injury to the animal, is also punishable by a fine not exceeding
25 five hundred dollars (\$500), imprisonment in a county jail not
26 exceeding six months, or by both a fine and imprisonment.

27 (e)

28 (d) (1) ~~Nothing in this section shall~~ *This section does not*
29 *prevent a peace officer, fire fighter, humane officer, or an animal*
30 ~~control officer~~ *animal control officer, or other emergency*
31 *responder from removing an animal from a motor vehicle if the*
32 *animal’s safety appears to be in immediate danger from heat, cold,*
33 *lack of adequate ventilation, lack of food or water, or other*
34 *circumstances that could reasonably be expected to cause suffering,*
35 *disability, or death to the animal.*

36 (2) A peace officer, *fire fighter*, humane officer, ~~or animal~~
37 ~~control officer who~~ *animal control officer, or other emergency*
38 *responder who removes an animal from a motor vehicle,*
39 *or who takes possession of an animal that has been removed from*
40 *a motor vehicle, shall take it to an animal shelter or other place of*

1 safekeeping or, if the officer deems necessary, to a veterinary
2 hospital for treatment. *The owner of the animal removed from the*
3 *vehicle may be required to pay for charges that have accrued for*
4 *the maintenance, care, medical treatment, or impoundment of the*
5 *animal.*

6 (3) A peace officer, *fire fighter*, humane officer, ~~or animal~~
7 ~~control officer~~ *animal control officer*, or other emergency
8 responder is authorized to take all steps that are reasonably
9 necessary for the removal of an animal from a motor vehicle,
10 including, but not limited to, breaking into the motor vehicle, after
11 a reasonable effort to locate the owner or other person responsible.

12 (4) A peace officer, *fire fighter*, humane officer, ~~or animal~~
13 ~~control officer~~ *animal control officer*, or other emergency
14 responder who removes an animal from a motor vehicle shall, in
15 a secure and conspicuous location on or within the motor vehicle,
16 leave written notice bearing his or her name and office, and the
17 address of the location where the animal can be claimed. The
18 animal may be claimed by the owner only after payment of all
19 charges that have accrued for the maintenance, care, medical
20 treatment, or impoundment of the animal.

21 (5) This section does not affect in any way existing liabilities
22 or immunities in current law, or create any new immunities or
23 liabilities.

24 (d)

25 (e) Nothing in this section shall preclude prosecution under both
26 this section and Section 597 or any other provision of law,
27 including city or county ordinances.

28 (e)

29 (f) Nothing in this section shall be deemed to prohibit the
30 transportation of horses, cattle, pigs, sheep, poultry or other
31 agricultural animals in motor vehicles designed to transport such
32 animals for agricultural purposes.

33 ~~SECTION 1. Section 43.100 is added to the Civil Code, to~~
34 ~~read:~~

35 ~~43.100. (a) There shall not be any civil liability on the part of,~~
36 ~~and no cause of action shall accrue against, a person for damage~~
37 ~~to a motor vehicle, if the damage was caused while the person was~~
38 ~~rescuing or providing care to a minor who, or animal that, was~~
39 ~~located inside the motor vehicle and the person had done all of the~~
40 ~~following:~~

1 ~~(1) Reasonably believed that the health or well-being of the~~
2 ~~minor or animal was endangered due to heat, cold, lack of adequate~~
3 ~~ventilation, or other circumstances that could reasonably be~~
4 ~~expected to cause suffering, disability, or death to the minor or~~
5 ~~animal.~~

6 ~~(2) Determined the motor vehicle was locked or there was no~~
7 ~~reasonable method for the minor or animal to exit the motor vehicle~~
8 ~~without assistance.~~

9 ~~(3) Contacted, to the extent practicable, a law enforcement~~
10 ~~agency, fire department, or the emergency 911 telephone number~~
11 ~~before damaging the motor vehicle.~~

12 ~~(4) Took necessary action, in good faith, to enter the motor~~
13 ~~vehicle for the purpose of rescuing or providing care to the minor~~
14 ~~or animal.~~

15 ~~(5) Remained with the minor or animal in a safe location, either~~
16 ~~inside or outside, but reasonably close to, the motor vehicle, to the~~
17 ~~extent practicable, until a law enforcement officer, fire department~~
18 ~~personnel, or other emergency responder arrived.~~

19 ~~(b) The immunity for civil liability for damage to a motor~~
20 ~~vehicle provided by this section shall not affect a person's civil~~
21 ~~liability or immunity from civil liability for rendering aid to a~~
22 ~~minor or animal in addition to the aid described by this section.~~

23 ~~SEC. 2. This act is an urgency statute necessary for the~~
24 ~~immediate preservation of the public peace, health, or safety within~~
25 ~~the meaning of Article IV of the Constitution and shall go into~~
26 ~~immediate effect. The facts constituting the necessity are:~~

27 ~~In order to limit civil liability against a person who rescues or~~
28 ~~provides care for a minor or animal reasonably at risk of being~~
29 ~~endangered inside a motor vehicle during the hottest months of~~
30 ~~the year, it is necessary for this act to take effect immediately.~~