

Assembly Bill No. 797

Passed the Assembly August 25, 2016

Chief Clerk of the Assembly

Passed the Senate August 15, 2016

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2016, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Section 43.100 to the Civil Code, and to amend Section 597.7 of the Penal Code, relating to trespass.

LEGISLATIVE COUNSEL'S DIGEST

AB 797, Steinorth. 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 firefighter 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 exempt a person from criminal liability for actions taken reasonably and in good faith to remove an animal from a vehicle under the circumstances described above if the person satisfies specified conditions, including immediately turning the animal over to a representative from law enforcement, animal control, or other emergency responder who responds to the scene. 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.

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

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

43.100. (a) There shall not be any civil liability on the part of, and no cause of action shall accrue against, a person for property damage or trespass to a motor vehicle, if the damage was caused while the person was rescuing an animal in accordance with subdivision (b) of Section 597.7 of the Penal Code.

(b) The immunity from civil liability for property damage to a motor vehicle that is established by subdivision (a) does not affect a person's civil liability or immunity from civil liability for rendering aid to an animal.

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

597.7. (a) A person shall not leave or confine an animal in any unattended motor vehicle under conditions that endanger the health or well-being of an animal due to heat, cold, lack of adequate ventilation, or lack of food or water, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the animal.

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

(2) A person who removes an animal from a vehicle in accordance with paragraph (1) is not criminally liable for actions taken reasonably and in good faith if the person does all of the following:

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

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

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

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

(E) Used no more force to enter the vehicle and remove the animal from the vehicle than was necessary under the circumstances.

(F) Immediately turns the animal over to a representative from law enforcement, animal control, or another emergency responder who responds to the scene.

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

(d) (1) This section does not prevent a peace officer, firefighter, humane officer, animal control officer, or other emergency responder from removing an animal from a motor vehicle if the animal’s safety appears to be in immediate danger from heat, cold, lack of adequate ventilation, lack of food or water, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the animal.

(2) A peace officer, firefighter, humane officer, animal control officer, or other emergency responder who removes an animal from a motor vehicle, or who takes possession of an animal that has been removed from a motor vehicle, shall take it to an animal shelter or other place of safekeeping or, if the officer deems necessary, to a veterinary hospital for treatment. The owner of the animal removed from the vehicle may be required to pay for charges that have accrued for the maintenance, care, medical treatment, or impoundment of the animal.

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

(4) A peace officer, firefighter, humane officer, animal control officer, or other emergency responder who removes an animal from a motor vehicle or who receives an animal rescued from a vehicle from another person shall, in a secure and conspicuous location on or within the motor vehicle, leave written notice bearing his or her name and office, and the address of the location where the animal can be claimed. The animal may be claimed by the owner only after payment of all charges that have accrued for the maintenance, care, medical treatment, or impoundment of the animal.

(5) Except as provided in subdivision (b), this section does not affect in any way existing liabilities or immunities in current law, or create any new immunities or liabilities.

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

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

Approved _____, 2016

Governor