

CONCURRENCE IN SENATE AMENDMENTS

AB 797 (Steinorth and Santiago)

As Amended August 1, 2016

Majority vote

ASSEMBLY: (April 30, 2015) SENATE: 37-0 (August 15, 2016)

(vote not relevant)

Original Committee Reference: **A. & A.R.**

SUMMARY: Exempts a person from civil and criminal liability for property damage or trespass to a motor vehicle if the property damage or trespass occurred while the person was rescuing an animal under specified circumstances.

The Senate amendments delete the Assembly version of this bill, and instead:

- 1) Provide that a person is not prevented 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) Provide that a person who removes an animal from a vehicle in accordance with 1), above 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.
- 3) Provide that 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 the provisions

specified in 2) above. Clarify that this immunity from civil liability for property damage to a motor vehicle does not affect a person's civil liability or immunity from civil liability for rendering aid to an animal.

- 4) Clarify that firefighters are included among those public officers that are authorized under existing law to follow specified procedures to rescue an animal from a motor vehicle.

EXISTING LAW:

- 1) Prohibits a person from leaving or confining 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. (Penal Code Section (PEN) 597.7 (a).)
- 2) Provides that a first conviction for violation of the above rule is punishable by a fine not exceeding \$100 per animal, unless the animal suffers great bodily injury, in which case the violation is punishable by a fine not exceeding \$500, imprisonment in a county jail not exceeding six months, or by both a fine and imprisonment. Further provides that any subsequent violation of this section, regardless of injury to the animal, is also punishable by a fine not exceeding \$500, imprisonment in a county jail not exceeding six months, or by both a fine and imprisonment. (PEN 597.7 (b).)
- 3) Clarifies that these provisions do not prevent any peace officer, humane officer, or animal control officer from following specified procedures to rescue an animal from a motor vehicle. (PEN 597.7 (c).)

FISCAL EFFECT: None

COMMENTS: This bill, co-sponsored by the Humane Society of the United States and the Los Angeles District Attorney, seeks to establish specified immunity from civil and criminal liability for any person who acts to rescue an animal facing imminent danger while left unattended in a motor vehicle.

According to the author: "California's existing 'Good Samaritan' statute does not protect a person from liability from acting to rescue an animal facing imminent danger from being trapped in a hot car. As a result, well-intentioned people who notice an animal illegally left in an unattended vehicle are unable to act to save the pet from potential heat exhaustion or death in the event that law enforcement or emergency responders are unable to arrive in time to act."

Existing law prohibits any person from leaving or confining 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. Violations of this rule range from up to \$100 for a first conviction if the animal does not suffer great bodily injury, or up to \$500 and six months' in county jail, or both, if the animal does suffer great bodily injury. In order to encourage the rescue of animals in such circumstances, this bill would authorize a person to take 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.

In order to receive immunity from criminal and civil liability under this bill, a person seeking to rescue an animal must strictly follow specific steps identified by this bill prior to entering the vehicle, including: 1) determining the vehicle is locked or that there is otherwise no reasonable manner for the animal to be removed from the vehicle; 2) having a good faith belief that forcible entry into the vehicle is necessary because the animal is in imminent danger of suffering harm if not immediately removed from the vehicle, and based upon the circumstances known to the person at the time, the belief is reasonable; and 3) contacting local law enforcement prior to forcibly entering the vehicle.

In addition, the person is required to use no more force than necessary to enter the vehicle and remove the animal from the vehicle. Following entry into the vehicle to rescue the animal, the person is required to remain with the animal at a safe location, out of the elements but reasonably close to the vehicle, until an emergency responder arrives.

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