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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 *Bloom*, *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, and to amend Section 597.7 of the Penal Code, relating to trespass.

LEGISLATIVE COUNSEL'S DIGEST

AB 797, as amended, 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 ~~fire fighter~~ *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 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~~ *a person from criminal liability for removal of the 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.

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

1 (b) The immunity from civil liability for property damage or
2 trespass to a motor vehicle established by this section *subdivision*
3 (a) does not affect a person's civil liability or immunity from civil
4 liability for rendering aid to an animal pursuant to Section 597.7
5 of the Penal Code: *animal*.

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

7 597.7. (a) A person shall not leave or confine an animal in any
8 unattended motor vehicle under conditions that endanger the health
9 or well-being of an animal due to heat, cold, lack of adequate
10 ventilation, or lack of food or water, or other circumstances that
11 could reasonably be expected to cause suffering, disability, or
12 death to the animal.

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

20 (2) ~~If a person described in paragraph (1) removes the animal~~
21 ~~from a vehicle he or she shall immediately turn the animal over to~~
22 ~~a representative from law enforcement, animal control, or another~~
23 ~~emergency responder who responds to the scene.~~

24 (3) ~~(A) A person acting under this subdivision, and in~~
25 ~~accordance with subparagraph (B), is not criminally liable for~~
26 ~~actions taken reasonably and in good faith in acting in accordance~~
27 ~~with this subdivision.~~

28 ~~(B) Subparagraph (A) applies if the person does all of the~~
29 ~~following:~~

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

34 (1)

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

37 (2)

38 (B) Has a good faith belief that forcible entry into the vehicle
39 is necessary because the animal is in imminent danger of suffering
40 harm if it is not immediately removed from the vehicle, and, based

1 upon the circumstances known to the person at the time, the belief
2 is a reasonable one.

3 ~~(3)~~

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

7 ~~(4)~~

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

12 ~~(5)~~

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

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

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

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

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

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

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

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

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

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

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

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